



# JOURNAL OF LAWS OF THE REPUBLIC OF POLAND

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Warsaw, 24 May 2018

Item 1000

ACT

of 10 May 2018

on the Protection of Personal Data<sup>1), 2), 3)</sup>

Chapter 1

## General provisions

**Article 1.** 1. This Act applies to the protection of natural persons in connection with processing of personal data within the scope defined in Article 2 and Article 3 of the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (Official Journal of the European Union L 119 of 04.05.2016, p. 1), hereinafter referred to as “Regulation 2016/679”.

2. The Act sets forth:

- 1) the public entities obliged to designate a data protection officer and the mode of notifying about his or her designation;

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<sup>1)</sup> The purpose of this Act is to ensure the application of the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

<sup>2)</sup> This Act implements, within its regulatory scope, the Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA.

<sup>3)</sup> By this Act, the following Acts are amended: Act of 17 November 1964 - Code of Civil procedure, Act of 17 June 1966 on Enforcement Proceedings in Administration, Act of 26 June 1974 - Labour Code, Act of 31 July 1981 on the Remuneration of High Level State Officials, Act of 16 September 1982 on Employees in State Offices, Act of 8 March 1990 on the Municipal Government, Act of 23 December 1994 on the Supreme Audit Office, Act of 29 June 1995 on Public Statistics, Act of 10 April 1997 - Energy Law, Act of 21 August 1997 on Real Estate Management, Act of 27 August 1997 on the Vocational and Social Rehabilitation and Employment of Persons with Disabilities, Act of 29 August 1997 - Tax Ordinance, Act of 29 August 1997 - Banking Law, Act of 5 June 1998 on Voivodeship Self-Government, Act of 5 June 1998 on District Self-Government, Act of 18 December 1998 on the Institute of National Remembrance – the Commission for the Prosecution of Crimes against the Polish Nation, Act of 9 November 2000 on the Establishment of the Polish Agency for Enterprise Development, Act of 8 June 2001 on the Profession of the Psychologist and the Professional Self-Government of Psychologists, Act of 27 July 2001 - Law on Common Courts Organization, Act of 28 November 2003 on Family Benefits, Act of 27 May 2004 on Investment Funds and Management of Alternative Investment Funds, Act of 17 December 2004 on the Liability for the Breach of Public Finance Discipline, Act of 17 February 2005 on the Computerization of the Business Entities Pursuing Public Tasks, Act of 27 July 2005 - Law on Higher Education, Act of 18 October 2006 on Disclosure of Information about Documents of State Security Bodies from the Years 1944–1990 and the Content of these Documents, Act of 7 September 2007 on Assistance for Persons Entitled to Maintenance Payments, Act of 27 August 2009 on Public Finance, Act of 5 November 2009 on Cooperative Savings and Credit Unions, Act of 9 April 2010 on the Disclosure of Economic Information and the Exchange of Economic Data, Act of 9 April 2010 on the Prison Service, Act of 5 August 2010 on the Protection of Classified Information, Act of 5 January 2011 – Election Code, Act of 15 July on Nurse and Midwife Professions, Act of 19 August 2011 on Payment Services, Act of 14 December 2012 on Waste, Act of 20 February 2015 on Renewable Energy Sources, Act of 24 July 2015 – Law on Assemblies, Act of 11 September 2015 on Insurance and Reinsurance Activity, Act of 25 September 2015 on the Profession of Physiotherapist, Act of 9 October 2015 on Biocides, Act of 28 January 2016 - Law on the Public Prosecution Office, Act of 11 February 2016 on State Aid in Raising Children, Act of 25 February 2016 on Reuse of Public Sector Information, Act of 13 April 2016 on the Security of Trade in Explosives Precursors, Act of 16 November 2016 on the National Fiscal Administration, Act of 14 December 2016 - Education Law, Act of 16 December 2016 on the Principles of State Property Management, Act of 9 March 2017 on the Monitoring System for the Road Carriage of Goods and the Act of 27 October 2017 on Primary Healthcare, and the Act of 29 August 1997 on the Protection of Personal Data is repealed.

- 2) the conditions and mode of accrediting the entity authorized to perform certification with regard to personal data protection, accredited by the Polish Centre for Accreditation, hereinafter referred to as “certification body”, body monitoring a code of conduct and certification;
- 3) the mode of approving the code of conduct;
- 4) the authority competent in matters of personal data protection;
- 5) the procedure in case of an infringement of personal data protection provisions;
- 6) the mode of European administrative cooperation;
- 7) inspection of compliance with personal data protection provisions;
- 8) the civil liability for the infringement of personal data protection provisions and proceedings before court;
- 9) the penal liability and administrative fines for the infringement of personal data protection provisions.

**Article 2.** 1. The provisions of Articles 5-9, Article 11, Articles 13-16, Articles 18-22, Article 27, Article 28 para. 2-10 and Article 30 of the Regulation 2016/679 shall not apply to activities consisting in editing, preparing, creating or publishing press materials within the meaning of the Act of 26 January 1984 - Press Law (Journal of Laws, item 24, as amended<sup>4)</sup>), as well as the statements made as part of literary or artistic activities.

2. The provisions of Article 13, Article 15 para. 3 and 4, Article 18, Article 27, Article 28 para. 2-10 and Article 30 of the Regulation 2016/679 shall not apply to academic expression.

**Article 3.** 1. The controller performing a public task shall not convey information referred to in Article 13 para. 3 of the Regulation 2016/679 if a change in the purpose of processing serves the performance of a public task and non-fulfilment of the obligation referred to in Article 13 para. 3 of the Regulation 2016/679 is necessary to fulfil the purposes referred to in Article 23 para. 1 of that Regulation, and conveyance of that information:

- 1) shall make it impossible or shall significantly hinder the performance of a public task, and the interest or fundamental rights or freedoms of the data subject are not superior with respect to the interest ensuing from the performance of that public task or
- 2) shall infringe the protection of classified information.

2. In the case referred to in para. 1, the controller shall implement appropriate measures to protect the interest or fundamental rights and freedoms of the data subject.

3. The controller shall be obliged to inform the data subject at its request, without undue delay, not later though than within one month of the day on which such request is received, about the grounds for not conveying the information referred to in Article 13 para. 3 of the Regulation 2016/679.

**Article 4.** 1. In matters not regulated in Article 14 para. 5 of the Regulation 2016/679, the controller performing a public task shall not convey information referred to in Article 14 para. 1, 2 and 4 of the Regulation 2016/679 if this serves the performance of a public task and non-fulfilment of the obligation referred to in Article 14 para. 1, 2 and 4 of the Regulation 2016/679 is necessary to fulfil the purposes referred to in Article 23 para. 1 of that Regulation, and conveyance of that information:

- 1) shall make it impossible or shall significantly hinder the performance of a public task, and the interest or fundamental rights or freedoms of the data subject are not superior with respect to the interest ensuing from the performance of that public task or
- 2) shall infringe the protection of classified information.

2. In the case referred to in para. 1, the controller shall implement appropriate measures to protect the interest or fundamental rights and freedoms of the data subject.

3. The controller shall be obliged to inform the data subject at its request, without undue delay, not later though than within one month of the day on which such request is received, about the grounds for not conveying the information referred to in Article 14 para. 1, 2 and 4 of the Regulation 2016/679.

**Article 5.** 1. The controller performing a public task shall not convey information referred to in Article 15 para. 1-3 of

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<sup>4)</sup> Amendments to the said Act were published in the Journal of Laws of 1988, item 324, of 1989, item 187, of 1990, item 173, of 1991, item 442, of 1996, item 542, of 1997, item 554 and 770, of 1999, item 999, of 2001, item 1198, of 2002, item 1271, of 2004, item 1181, of 2005, item 377, of 2007, item 590, of 2010, item 1228 and 1551, of 2011, item 459, 934, 1204 and 1660, of 2012, item 1136, of 2013, item 771 and of 2017, item 2173.

the Regulation 2016/679 if this serves the performance of a public task and non-fulfilment of the obligations referred to in Article 15 para. 1-3 of the Regulation 2016/679 is necessary to fulfil the purposes referred to in Article 23 para. 1 of that Regulation, and fulfilment of those obligations:

- 1) shall make it impossible or shall significantly hinder the performance of a public task, and the interest or fundamental rights or freedoms of the data subject are not superior with respect to the interest ensuing from the performance of that public task or
- 2) shall infringe the protection of classified information.

2. In the case where fulfilment of the obligations referred to in Article 15 para. 1 and 3 of the Regulation 2016/679 would involve a disproportionate effort associated with retrieving the personal data, the controller performing a public task shall ask the data subject for information making it possible to retrieve those data. The provision of Article 64 of the Act of 14 June 1960 - Code of Administrative Procedure (Journal of Laws of 2017, item 1257, and of 2018, items 149 and 650) shall apply accordingly.

3. In the cases referred to in para. 1 and 2, the controller shall implement appropriate measures to protect the interest or fundamental rights and freedoms of the data subject.

4. The controller shall be obliged to inform the data subject at its request, without undue delay, not later though than within one month of the day on which such request is received, about the grounds for not fulfilling the obligations referred to in Article 15 para. 1-3 of the Regulation 2016/679.

**Article 6.** The Act and the Regulation 2016/679 shall not apply to:

- 1) processing of personal data by entities of the public finance sector referred to in Article 9 items 1, 3, 5, 6 and 14 of the Act of 27 August 2009 on Public Finance (Journal of Laws of 2017, item 2077 and of 2018, items 62 and 1000), to the extent that processing is necessary to perform tasks aimed at guaranteeing national security, if special provisions stipulate necessary measures of protecting the rights and freedoms of the data subject;
- 2) activities of special forces within the meaning of Article 11 of the Act of 24 May 2002 on the Internal Security Agency and Foreign Intelligence Agency (Journal of Laws of 2017, items 1920 and 2405 and of 2018, items 138, 650, 723 and 730).

**Article 7.** 1. In matters not regulated in the Act, the Act of 14 June 1960 - Code of Administrative Procedure shall apply to administrative procedures before the President of the Personal Data Protection Office, hereinafter referred to as "President of the Office", referred to in chapters 4-7 and 11.

2. The procedure before the President of the Office shall be a single-instance procedure.

3. Appeal provisions shall not apply to resolutions issued in procedures referred to in para. 1 which can be contested in accordance with the Act of 14 June 1960 - Code of Administrative Procedure.

4. The resolutions referred to in para. 3 may be appealed to an administrative court.

## Chapter 2

### Designation of the data protection officer

**Article 8.** The controller and the processor shall be obliged to designate a data protection officer, hereinafter referred to as "officer", in the cases and in accordance with the principles set out in Article 37 of the Regulation 2016/679.

**Article 9.** The public authorities and bodies obliged to designate the officer referred to in Article 37 para. 1(a) of the Regulation 2016/679 shall mean:

- 1) entities of the public finance sector;
- 2) research institutes;
- 3) the National Bank of Poland.

**Article 10.** 1. The entity which has designated an officer shall notify the President of the Office about the designation within 14 days of the day of the designation, indicating the officer's first and last name and the electronic mail address or phone number.

2. The notification can be made by an authorized representative of the body referred to in para. 1. A power of attorney granted in electronic form shall be attached to the notification.

3. Apart from the data referred to in para. 1 the following shall be provided in the notification:

- 1) the first and last name and the residence address if the controller or the processor is a natural person;
- 2) the entrepreneur's business name and the address of the place of business if the controller or the processor is a natural person pursuing a business activity;
- 3) the full name and the address of the registered office if the controller or the processor is an entity other than indicated in items 1 and 2;
- 4) REGON identification number, if such has been assigned to the controller or the processor.

4. The entity which has designated an officer shall notify the President of the Office about every change of data referred to in para. 1 and 3, and about recalling of the officer, within 14 days of the day on which the change occurred or the officer was recalled.

5. In a situation where one officer is designated by public authorities or bodies or by a group of entrepreneurs, each of these entities shall make the notification referred to in para. 1 and 4.

6. The notifications referred to in para. 1 and 4 shall be made in electronic form and shall be affixed with a qualified electronic signature or a signature confirmed by a trusted ePUAP profile.

**Article 11.** The entity which has designated an officer shall provide the officer's data referred to in Article 10 para. 1 immediately after the officer is designated on its website, and if it does not run its own website, in a commonly available manner at the place of business.

### Chapter 3

#### Conditions and mode of accrediting the certification body

**Article 12.** 1. Accreditation of bodies applying for a certification license with regard to protection of personal data referred to in Article 43 of the Regulation 2016/679, hereinafter referred to as "accreditation", shall be granted by the Polish Centre for Accreditation.

2. Accreditation shall be granted in accordance with the principles set out in Article 43 para. 1-7 of the Regulation 2016/679.

3. The procedure of granting an accreditation shall be governed by the provisions of Chapter 4 of the Act of 13 April 2016 on Conformity Assessment Systems and Market Surveillance (Journal of Laws of 2017, item 1398 and of 2018, item 650), excluding Article 24 para. 4-7 and Article 25 para. 1 and 2 as regards limitation of the scope of accreditation and suspension thereof.

**Article 13.** The President of the Office shall provide on his or her website, in the Public Information Bulletin, the accreditation criteria referred to in Article 43 para. 3 of the Regulation 2016/679.

**Article 14.** 1. The Polish Centre for Accreditation shall inform the President of the Office about an accreditation being granted.

2. Information about the accreditation granted shall contain:

- 1) an indication of the entity to which the accreditation was granted;
- 2) an indication of the scope of the accreditation granted and the period of its validity.

3. The Polish Centre for Accreditation shall inform the President of the Office about an accreditation being revoked.

4. Information about the accreditation revoked shall contain:

- 1) an indication of the entity whose accreditation was revoked;
- 2) an indication of the reason justifying the revocation of the accreditation.

5. The President of the Office and the Polish Centre for Accreditation may conclude a cooperation agreement on monitoring of activities of the certification bodies and mutual exchange of information concerning those bodies.

### Chapter 4

#### Conditions and mode of certification

**Article 15.** 1. The certification referred to in Article 42 of the Regulation 2016/679, hereinafter referred to as "certification", shall be performed by the President of the Office or the certification body, upon the request of the controller, processor, manufacturer or entity marketing a service or product.

2. Certification shall be performed in accordance with the principles set out in the Regulation 2016/679.

3. Any matters concerning certification by the certification body not regulated in the Regulation 2016/679 and the Act shall be governed by the provisions of a civil law contract concluded between the certification body and the entity applying for certification.

**Article 16.** The President of the Office shall provide on his or her website, in the Public Information Bulletin, the certification criteria referred to in Article 42 para. 5 of the Regulation 2016/679.

**Article 17.** 1. The application for certification shall contain at least:

- 1) the name of the entity applying for certification or its first and last name and an indication of the address of its registered office, address of the place of business or residence address;
- 2) information confirming the fulfilment of the certification criteria;
- 3) an indication of the scope of the certification.

2. Documents confirming the fulfilment of the certification criteria or copies thereof and, in case of certification being performed by the President of the Office, a proof of payment of the fee referred to in Article 26, shall be attached to the application.

3. The application shall be submitted in written form on paper or in electronic format, signed with, respectively, a handwritten signature or a qualified electronic signature. Application submitted to the President of the Office in electronic format shall be affixed with a qualified electronic signature or a signature confirmed by a trusted ePUAP profile.

**Article 18.** 1. The President of the Office or the certification body shall consider the application for certification and, within a time not exceeding 3 months of the day the application compliant with Article 17 is submitted, after checking whether the certification criteria have been fulfilled, shall notify the applicant about either a successful certification or its refusal.

2. An application submitted to the President of the Office, not containing the information referred to in Article 17 para. 1(1), shall not be considered. Should the application lack the information referred to in Article 17 para. 1(2) or (3), or should it not fulfil the requirements referred to in Article 17 para. 2 or 3, the President of the Office shall call upon the applicant to supplement it, together with an instruction that failure to supplement it within 7 days of the day of delivery of the summons shall cause the application to be left unconsidered.

**Article 19.** Prior to the certification or its refusal, the certification body shall notify the President of the Office about the planned certification or its refusal.

**Article 20.** 1. Should it be determined that the entity applying for certification does not fulfil the certification criteria, the President of the Office or the certification body shall refuse to perform it.

2. The refusal of the President of the Office to perform the certification shall be made by way of a decision.

3. The certification body shall prepare and provide to interested entities a procedure in case of a refusal to perform certification.

**Article 21.** 1. The document confirming certification shall be a certificate.

2. The certificate shall contain, at least:

- 1) a designation of the entity which received the certificate;
- 2) the name of the certification body and an indication of its address;
- 3) the certificate's number or symbol;
- 4) the scope, including the period for which the certification was performed;
- 5) the date of issue and signature of the certification body or person authorized by it.

**Article 22.** 1. During the period for which the certification was performed, the entity to which the certificate was granted shall be obliged to fulfil the certification criteria in effect on the day the certificate was issued.

2. The President of the Office or the certification body shall revoke a certificate where the conditions for the certification are not, or are no longer, met.

3. The revocation of a certificate by the President of the Office shall be made by way of a decision.

**Article 23.** 1. The certification body shall convey to the President of the Office the data of the entity to which the certificate was granted as well as the entity whose certificate was revoked, together with an indication of the reason for its

revocation.

2. The President of the Office shall keep a publicly available list of entities referred to in para. 1.

3. The President of the Office shall make an entry on the list immediately after certification or receiving information about certification being performed by a certification body.

4. The President of the Office shall publish the list on his or her website, in the Public Information Bulletin, and shall update it.

**Article 24.** 1. Within the time referred to in Article 18 para. 1, as well as after the certification, the President of the Office shall have the right, for the purpose of assessing the entity's fulfilment of the certification criteria, to conduct an inspection at the controller's, processor's, manufacturer's or entity's marketing a service or product.

2. The President of the Office shall notify the entity referred to in para. 1 of the intention to conduct an inspection.

3. The inspection shall be conducted not earlier than after 7 days and not later than within 30 days of the date of delivery of the notification of the intention to conduct an inspection to the entity referred to in para. 1. If the inspection is not conducted within 30 days of the date of delivery of the notification, the initiation of an inspection shall require another notification.

4. The inspection shall be conducted on the basis of a personal authorization issued by the President of the Office, which shall contain:

- 1) the first and last name of the person conducting the inspection;
- 2) a designation of the controller, processor, manufacturer or entity marketing a service or product;
- 3) an indication of the legal basis for conducting the inspection;
- 4) the scope of the inspection;
- 5) the date and place of its issuance;
- 6) the signature of the person authorized to issue the authorization on behalf of the President of the Office.

**Article 25.** 1. The person conducting the inspection shall be authorized to:

- 1) enter any land, buildings, premises, or other spaces on business days and during the business hours of the controller, processor, manufacturer or entity marketing a service or product;
- 2) inspect documents and information directly related to the business operations covered by certification;
- 3) inspect devices, media, IT and ICT systems used in data processing;
- 4) request oral or written clarifications on issues associated with the business operations covered by certification.

2. The inspection shall be performed in the presence of the controller, processor, manufacturer or entity marketing a service or product or a person authorized by it.

3. A protocol shall be drawn up from the inspection which shall be presented to the controller, processor, manufacturer or entity marketing a service or product. The provisions of Article 88 shall apply accordingly.

**Article 26.** 1. The President of the Office shall charge a fee for the activities associated with certification; its value shall correspond to the anticipated costs of these activities.

2. Determining the value of the fee, the President of the Office shall take into account the scope of certification, the anticipated course and duration of the certification procedure and the costs of labour of the employee performing activities associated with certification.

3. The maximum value of the fee cannot exceed a four-fold of the average remuneration in the national economy in the calendar year preceding the year of submission of the application for certification, announced by the President of the Central Statistical Office of Poland pursuant to Article 20 (1) (a) of the Act of 17 December 1998 on Pensions from the Social Insurance Fund (Journal of Laws of 2017, item 1383, as amended<sup>5</sup>).

4. The President of the Office shall publish on his or her website, in the Public Information Bulletin, the value of the fee which the entity referred to in Article 15 shall be obliged to pay for activities associated with certification.

5. The fee shall constitute income of the State budget.

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<sup>5</sup> Amendments to the consolidated text of the said Act were published in the Journal of Laws of 2017, item 1386 and 2120 and of 2018, items 138, 357, 730 and 912.

## Chapter 5

**Drawing up and approving the code of conduct, conditions and the mode of accrediting the body monitoring compliance therewith**

**Article 27.** 1. The drawing up, issuing an opinion on and approving the code of conduct shall be in accordance with the principles set out in the Regulation 2016/679.

2. Prior to being forwarded to the President of the Office for approval, the code of conduct shall be consulted with interested entities.

3. Information about the consultations and their outcome shall be conveyed to the President of the Office together with the code of conduct.

4. Should the President of the Office find the scope of the consultations to be insufficient, he or she shall call upon the entity to re-consult it, indicating the scope thereof.

5. The party to the procedure concerning approval of the code of conduct shall solely be the applicant applying for its approval. The provisions of Article 31 of the Act of 14 June 1960 - Code of Administrative Procedure - shall not apply.

6. Para. 1-5 shall apply to the process of amending or extending the code of conduct.

**Article 28.** Compliance with the approved code of conduct shall be monitored by a body accredited by the President of the Office in accordance with the principles set out in Article 41 of the Regulation 2016/679.

**Article 29.** 1. Accreditation of the body referred to in Article 28 shall be granted upon request containing at least:

- 1) the name of the body applying for accreditation and the address of its registered office;
- 2) information confirming the fulfilment of the criteria referred to in Article 41 para. 1 and 2 of the Regulation 2016/679.

2. Documents confirming the fulfilment of the criteria referred to in Article 41 para. 1 and 2 of the Regulation 2016/679 or copies thereof shall be attached to the application.

3. The application shall be submitted in written form on paper or in electronic format, signed with, respectively, a handwritten signature or a qualified electronic signature or a signature confirmed by a trusted ePUAP profile.

**Article 30.** 1. The President of the Office shall consider the application referred to in Article 29 para. 1 and, within a time not exceeding 3 months of the day the application compliant with Article 29 is submitted, after checking whether the criteria referred to in Article 41 para. 1 and 2 of the Regulation 2016/679 have been fulfilled, shall notify the body applying for accreditation about either a successful accreditation or its refusal.

2. An application submitted to the President of the Office, not containing the information referred to in Article 29 para. 1(1), shall not be considered. Should the application lack the information referred to in Article 29 para. 1(2), or should it not fulfil the requirements referred to in para. 2 or 3, the President of the Office shall call upon the applicant to supplement it, together with an instruction that failure to supplement it within 7 days of the day of delivery of the summons shall cause the application to be left unconsidered.

3. Should it be determined that the body applying for accreditation does not fulfil the criteria referred to in Article 41 para. 1 and 2 of the Regulation 2016/679, the President of the Office shall refuse accreditation. The refusal to grant an accreditation shall be made by way of a decision.

**Article 31.** 1. The document confirming accreditation shall be an accreditation certificate.

2. The accreditation certificate shall contain, at least:

- 1) designation of the accredited body and the address of its registered office;
- 2) the accreditation certificate's number or symbol;
- 3) the date of issue and signature of the President of the Office or person authorized by him or her.

**Article 32.** 1. During the period for which the accreditation has been granted, the accredited body shall be obliged to fulfil the criteria referred to in Article 41 para. 1 and 2 of the Regulation 2016/679, in effect on the day the accreditation certificate was issued.

2. The President of the Office shall revoke the accreditation by way of a decision should it be determined that the accredited body:

- 1) does not fulfil or ceased fulfilling the criteria referred to in Article 41 para. 1 and 2 of the Regulation 2016/679;

2) undertakes activities incompliant with the Regulation 2016/679.

**Article 33.** 1. The President of the Office shall keep a publicly available list of accredited bodies.

2. The President of the Office shall make an entry on the list immediately after accreditation.

3. The President of the Office shall publish the list on his or her website, in the Public Information Bulletin, and shall update it.

## Chapter 6

### President of the Office

**Article 34.** 1. The President of the Office is the authority competent in matters of personal data protection.

2. The President of the Office is a supervisory authority within the meaning of the Regulation 2016/679, within the meaning of the Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (Official Journal of the European Union L 119 of 04.05.2016, p. 89) and within the meaning of the Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA (Official Journal of the European Union L 135 of 24.05.2016, p. 53).

3. The President of the Office shall be appointed and recalled by the Sejm of the Republic of Poland upon the consent of the Senate of the Republic of Poland.

4. The post of the President of the Office can be assumed by a person who:

- 1) is a Polish citizen;
- 2) has higher education;
- 3) has expert legal knowledge and experience in personal data protection;
- 4) enjoys full public rights;
- 5) has not been convicted by a final judgement for intentionally committed criminal or tax offence;
- 6) has good reputation.

5. The President of the Office shall be subject solely to the Act as regards the scope of his or her tasks.

6. The term of office of the President of the Office shall last 4 years, counting from the day on which an oath is taken. After the lapse of the term of office, the President of the Office shall perform his or her duties until the duties are taken up by a new President of the Office.

7. The same person cannot be a President of the Office for more than two terms of office.

8. The term of office of the President of the Office shall expire at the moment of his or her death, recall or loss of Polish citizenship.

9. The President of the Office may be recalled before the lapse of the term of office solely in a situation where:

- 1) he or she renders his or her resignation from the post;
- 2) he or she becomes permanently incapable of performing the duties as a result of an illness confirmed with a medical certificate;
- 3) he or she violated his or her oath of office;
- 4) he or she was convicted by way of a legally binding judgement for an intentional crime or an intentional fiscal crime;
- 5) he or she was deprived of his or her public rights.

10. In case of expiry of the term of office of the President of the Office, his or her duties shall be performed by the deputy of the President of the Office designated by the Marshal of the Sejm of the Republic of Poland.

**Article 35.** 1. Prior to assuming his or her duties, the President of the Office shall take the following oath before the Sejm of the Republic of Poland:



“Assuming the post of the President of the Personal Data Protection Office I hereby solemnly swear to observe the provisions of the Constitution of the Republic of Poland, to safeguard the right for personal data protection, and to perform the duties entrusted to me conscientiously and impartially.”.

2. The oath may be taken with the words: “So help me, God”.

**Article 36.** 1. The President of the Office may appoint up to three deputies.

2. The post of the deputy President of the Office can be assumed by a person who:

- 1) is a Polish citizen;
- 2) has higher education;
- 3) has expert legal knowledge and experience in personal data protection;
- 4) enjoys full public rights;
- 5) has not been convicted by way of a legally binding judgement for an intentional crime or an intentional fiscal crime;
- 6) has good reputation.

**Article 37.** 1. The President of the Office and his or her deputies may not hold other posts except for a didactic, scientific and didactic or scientific position at a university, at the Polish Academy of Sciences, in a scientific research institute or another scientific establishment, or pursue any other activities, whether gainful or not, inconsistent with the duties of the President of the Office.

2. The President of the Office and his or her deputies may not belong to any political party, trade union, or conduct public activity irreconcilable with the dignity of their office.

**Article 38.** 1. The President of the Office may neither be held criminally liable nor deprived of liberty without the prior consent of the Sejm of the Republic of Poland.

2. The President of the Office may express consent to holding him or her criminally liable for petty offences referred to in para. 3, in line with the procedure specified in this provision.

3. If the President of the Office has committed petty offence referred to in Chapter XI of the Act of 20 May 1971 – the Code of Petty Offences (Journal of Laws of 2018, items 618 and 911), the fact of accepting a penalty notice or paying a fine by the President of the Office, in the event of issuing a penalty notice in absentia referred to in Article 98 § 1 (3) of the Act of 24 August 2001 – the Petty Offences Procedure Code (Journal of Laws of 2018, item 475) shall constitute a statement of his or her consent to hold him or her liable in this way.

4. The President of the Office may not be detained or arrested, except in the act of committing a criminal offence, provided that his or her detention is necessary to secure the due course of proceedings. In such a case the Marshal of the Sejm has to be notified of the detention forthwith and may order that the detainee be immediately released.

**Article 39.** In criminal proceedings, the period of limitation for an act covered by immunity shall not run in the period in which the immunity is valid.

**Article 40.** 1. An application for consent to holding the President of the Office criminally liable in a case concerning a criminal offence prosecuted by public indictment shall be filed through the Prosecutor General.

2. An application for consent to holding the President of the Office criminally liable in a case concerning a criminal offence prosecuted by private indictment shall be filed by a private prosecutor, after the case has been brought to court.

3. The application referred to in para. 2 shall be prepared and signed by an advocate or a legal adviser, with the exception of applications filed in their own cases by judges, public prosecutors, advocates, legal advisers, notaries, and persons holding a degree of professor or habilitated doctor in law sciences.

4. The applications referred to in para. 1 and 2 shall include:

- 1) an indication of the applicant and the authorized representative, if appointed;
- 2) the first and last name and the date and place of birth of the President of the Office;
- 3) an indication of the legal basis for the application;
- 4) a detailed description of the act with an indication of the time, place, manner, and circumstances in which it was committed, as well as of its effects, and in particular of the nature of the resultant damage;
- 5) a substantiation.

**Article 41.** 1. The application for consent to holding the President of the Office criminally liable shall be filed to the Marshal of the Sejm.

2. If the application does not meet the formal requirements referred to in Article 40 para. 3 or 4, the Marshal of the Sejm shall call upon the applicant to correct or supplement the application within 14 days, indicating the required scope of the correction or supplementation. If the application is not corrected or supplemented within the specified time limit and scope, the Marshal of the Sejm shall decide not to consider the application.

3. If the application meets the formal requirements referred to in Article 40 para. 3 and 4, the Marshal of the Sejm shall direct the application for consideration to the competent authority of the Sejm of the Republic of Poland, at the same time informing the President of the Office of the contents of the application.

4. The authority competent to consider the application shall notify the President of the Office of the date of consideration of the application. At least 7 days shall elapse between the service of the notification and the date of consideration of the application, as long as the case is not urgent.

5. At the request of the authority competent to consider the application, the proceedings records shall be made available by the court or the appropriate authority before which the proceedings against the President of the Office are pending.

6. The President of the Office shall present to the authority competent to consider the case explanations and own conclusions related to that case, in written form or orally.

7. Having considered the case, the authority competent to consider the application shall adopt a report along with a proposal to accept or reject the application.

8. While the report referred to in para. 7 is being considered by the Sejm of the Republic of Poland, the President of the Office shall have the right to take the floor.

9. The Sejm of the Republic of Poland shall consent to holding the President of the Office criminally liable by way of a resolution adopted by an absolute majority of the statutory number of deputies. If the required majority of votes is not achieved, it shall be considered that a resolution on the absence of consent to hold the President of the Office criminally liable has been adopted.

**Article 42.** 1. The prohibition on detention referred to in Article 38 para. 4 shall cover all and any forms of depriving or restricting the liberty of the President of the Office by authorities authorized to apply coercive measures.

2. The application for consent to detain or arrest the President of the Office shall be filed through the Prosecutor General.

3. The application referred to in para. 2 shall contain:

- 1) an indication of the applicant;
- 2) the first and last name and the date and place of birth of the President of the Office;
- 3) a detailed description of the act and the legal classification of the act;
- 4) the legal basis for applying the given measure;
- 5) a statement of reasons, indicating in particular the need to apply the given measure.

4. The provisions of Article 41 para. 1-8 shall apply accordingly to the process of handling the application referred to in para. 2.

5. The Sejm of the Republic of Poland shall consent to detaining or arresting the President of the Office by way of a resolution adopted by an absolute majority of the statutory number of deputies. If the required majority of votes is not achieved, it shall be considered that a resolution on the absence of consent to the detention or arrest of the President of the Office has been adopted.

6. The requirement to obtain the consent of the Sejm of the Republic of Poland shall not apply to the execution of a sentence of imprisonment imposed by a final and binding court judgement.

**Article 43.** 1. The Marshal of the Sejm shall immediately send the resolution referred to in Article 41 para. 9 and Article 42 para. 5 to the applicant.

2. The resolutions referred to in Article 41 para. 9 and Article 42 para. 5 shall be published in the Official Gazette of the Republic of Poland "Monitor Polski".

**Article 44.** The provisions of the Act concerning the criminal liability of the President of the Office shall apply accordingly to liability for petty offences.

**Article 45.** 1. The President of the Office shall perform his or her tasks through the Personal Data Protection Office, hereinafter referred to as "Office".

2. In situations justified by the nature and number of cases pertaining to personal data protection in the given area, the President of the Office may establish local branches of the Office.

3. By way of an order, the President of the Office shall lay down the Office's Statutes defining:

- 1) the Office's internal organization,
- 2) the scope of tasks of his or her deputies,
- 3) the scope of tasks and the mode of operations of the Office's organizational units

- aimed at creating optimum organizational conditions allowing the Office to correctly perform its tasks.

**Article 46.** 1. The President of the Office, the deputies of the President of the Office and the Office's employees shall be obliged to keep confidential any information which they acquired in connection with their duties.

2. The obligation to keep confidential the information referred to in para. 1 shall remain in effect also after the lapse of the term of office or term of employment.

**Article 47.** The Council of Ministers shall define, by way of a regulation, a specimen of the official identity card of the Office's employee, taking into account the need to ensure the possibility of identifying persons authorized to perform inspections and other official duties.

**Article 48.** 1. A Personal Data Protection Council, hereinafter referred to as "Council", which is a consulting and advisory body, shall be affiliated to the President of the Office.

2. The tasks of the Council shall include:

- 1) providing opinions on draft documents of the European Union bodies and institutions concerning personal data protection;
- 2) providing opinions on draft legislative measures and other documents concerning personal data protection conveyed by the President of the Office;
- 3) preparing proposals of certification criteria referred to in Article 42 para. 5 of the Regulation 2016/679;
- 4) preparing proposals of recommendations specifying technical and organizational measures applied to ensure the security of personal data processing;
- 5) initiating actions in the area of personal data protection and presenting proposals of changes in the law in this area to the President of the Office;
- 6) providing opinions on issues presented to the Council by the President of the Office;
- 7) performing other tasks set by the President of the Office.

3. The Council shall provide the opinion within 21 days of receiving the drafts or documents referred to in para. 2.

4. The opinions, minutes of the meetings and other documents of the Council shall be published on the Office's website in the Public Information Bulletin of the President of the Office.

5. The Council shall present to the President of the Office a report on activities for every calendar year by 31 March of the following year.

6. The Council shall be comprised of 8 members.

7. The candidates for members of the Council shall be put forward by:

- 1) the Council of Ministers;
- 2) the Commissioner for Human Rights;
- 3) chambers of commerce;
- a) scientific entities within the meaning of the Act of 30 April 2010 on Financing of Science (Journal of Laws of 2018, item 87);
- 5) foundations and associations entered in the National Court Register, whose statutory purpose are activities in the field of personal data protection.

8. The Council's member can be a person who:

- 1) has higher education;
- 2) has not been convicted by way of a legally binding judgement for an intentional crime or an intentional fiscal crime;
- 3) enjoys full public rights;
- 4) agreed to stand as candidate.

9. The Council's member shall be obliged to keep confidential any information which he or she acquired in connection with his or her duties. The President of the Office may release the member from the obligation to maintain confidentiality within the scope defined by him or her.

10. The President of the Office shall appoint the Council's members for a two-year term of office from among the candidates put forward by the entities referred to in para. 7, including 5 members from among the candidates put forward by the entities referred to in para. 7(1) and (2), and 3 members from among the candidates put forward by the entities referred to in para. 7(3)-(5).

11. Prior to the lapse of the term of office, membership in the Council shall expire due to:

- 1) written resignation submitted to the Council's chairperson;
- 2) death;
- 3) inability to fulfil the function due to long-term illness confirmed by a medical certificate;
- 4) conviction by way of a legally binding judgement for an intentional crime or an intentional fiscal crime;
- 5) deprivation of public rights;

12. In the situation referred to in para. 11, the President of the Office shall appoint a new member of the Council for the time left until the end of the term of office from among the other candidates, after confirming that the candidature still holds, taking into account para. 10.

13. The President of the Office shall appoint and recall the Council's chairperson and deputy chairperson from among its members.

14. The Council's chairperson shall manage the Council's work and shall represent it externally. In case of its absence, it shall be substituted by the Council's deputy chairperson.

15. The Council shall be serviced by the Office.

16. Other persons can be invited to the Council's meeting by the President of the Office and the Council's chairperson, provided that this is justified by the Council's tasks. The provision of para. 9 shall apply accordingly.

17. A detailed operating procedure of the Council shall be set out in the rules of procedure adopted by the President of the Office at the Council's request.

**Article 49.** 1. A remuneration shall be payable to the Council's member for participating in the Council's work. The value of the remuneration shall depend on the scope of duties associated with the function held in the Council and the number of meetings in which the member participated.

2. The remuneration of the Council's member for participating in a single meeting shall account at least 5% of the average remuneration in the national economy in the calendar year preceding the year in which the Council was appointed, announced by the President of the Central Statistical Office of Poland pursuant to Article 20 (1) (a) of the Act of 17 December 1998 on Pensions from the Social Insurance Fund, and cannot exceed 25% of that remuneration.

3. The Council of Ministers shall define, by way of a regulation, the value of the remuneration of the Council's member for participating in the meeting and the number of the Council's meetings during the calendar year, taking into account the scope of duties associated with the function held in the Council and proper performance of the Council's tasks.

4. The Council's members having a place of residence in a location other than the place where the Office has its seat shall be entitled to food allowances and reimbursements of the costs of travel and accommodation on terms set out in the implementing provisions issued on the basis of Article 77<sup>5</sup> § 2 of the Act of 26 June 1974 - Labour Code (Journal of Laws of 2018, items 917 and 1000).

**Article 50.** 1. Once a year, by 31 August, the President of the Office shall present to the Sejm of the Republic of Poland, the Council of Ministers, the Commissioner for Human Rights, the Ombudsperson for Children and the Prosecutor General a report on his or her activities, containing, in particular, information about the number and type of final court judgments taking

into account appeals to the decisions or rulings of the President of the Office and the conclusions ensuing from the state of compliance with the personal data protection provisions.

2. The President of the Office shall publish the report referred to in para. 1 on his or her website, in the Public Information Bulletin.

**Article 51.** Assumptions and draft legislative measures concerning personal data shall be presented to the President of the Office for opinion.

**Article 52.** 1. The President of the Office may address representations to the state bodies, local government bodies, state and communal organizational units, non-public bodies performing public tasks, natural and legal persons, organizational units not being legal persons and other entities aimed at ensuring effective personal data protection.

2. The President of the Office can also apply to competent authorities to take legislative initiatives or to issue or amend legislative measures in matters concerning personal data protection.

3. The entity to which the representation or the application referred to in para. 1 and 2 was addressed shall be obliged to reply to that representation or application in writing within 30 days of its receipt.

**Article 53.** 1. On his or her website, in the Public Information Bulletin, the President of the Office shall publish:

- 1) standard contractual clauses referred to in Article 28 para. 8 of the Regulation 2016/679;
- 2) approved codes of conduct referred to in Article 40 of the Regulation 2016/679, as well as amendments to those codes;
- 3) adopted standard contractual data protection clauses referred to in Article 46 para. 2 (d) of the Regulation 2016/679;
- 4) recommendations specifying technical and organizational measures applied to ensure the security of personal data processing.

2. The recommendations referred to in para. 1 (4) shall be prepared taking into account the nature of the given type of activity and shall be periodically updated.

3. The draft recommendations referred to in para. 1 (4) shall be consulted by the President of the Office with interested entities whose scope of activity the given draft pertains to.

**Article 54.** 1. The President of the Office:

- 1) makes public a list of the kind of processing operations which are subject to the requirement for a data protection impact assessment referred to in Article 35 para. 4 of the Regulation 2016/679;
- 2) may make public a list of the kind of processing operations for which no data protection impact assessment is required as referred to in Article 35 para. 5 of the Regulation 2016/679.

2. The announcements referred to in para. 1 shall be published in the Official Gazette of the Republic of Poland “Monitor Polski”.

**Article 55.** The President of the Office may operate an ICT system allowing the controllers to report any case of infringement of personal data protection referred to in Article 33 of the Regulation 2016/679.

**Article 56.** By way of a decision, the President of the Office shall:

- 1) approve binding corporate rules referred to in Article 47 of Regulation 2016/679;
- 2) give the authorization referred to in Article 46 para. 3 of Regulation 2016/679.

**Article 57.** 1. The controller or the processor may apply to the President of the Office with a request to hold prior consultations referred to in Article 36 of the Regulation 2016/679.

2. The provisions of Article 63 of the Act of 14 June 1960 - Code of Administrative Procedure - shall apply accordingly to the request.

3. Should the request not fulfil the requirements set out in Article 36 para. 3 of the Regulation 2016/679 and Article 63 of the Act of 14 June 1960 - Code of Administrative Procedure, the President of the Office shall inform about not providing consultation, indicating the reasons therefor.

**Article 58.** Should the President of the Office, based on information possessed, deem that provisions concerning personal data processing have been infringed, he or she may request that disciplinary proceedings or other proceedings provided for in the law be initiated against the persons which committed the infringement and that he or she be informed, within a specified deadline, about the outcome of the proceedings and about the measures undertaken.

**Article 59.** 1. In matters of personal data protection, the President of the Office shall cooperate with independent supervisory authorities established under Article 91 of the Regulation 2016/679.

2. The President of the Office may conclude an agreement with the authorities referred to in para. 1 on cooperation and mutual exchange of information.

## Chapter 7

### Procedure in case of infringement of the personal data protection provisions

**Article 60.** The procedure in case of infringement of the personal data protection provisions, hereinafter referred to as “procedure”, shall be conducted by the President of the Office.

**Article 61.** The social organization referred to in Article 31 § 1 of the Act of 14 June 1960 - Code of Administrative Procedure, can also participate in the procedure upon the consent of the data subject, in its name and on its behalf.

**Article 62.** In the case referred to in Article 36 of the Act of 14 June 1960 - Code of Administrative Procedure, the President of the Office, notifying the parties about the case not being processed on time, shall also be obliged to inform them about the progress of the case and the actions being taken in its course.

**Article 63.** The President of the Office may request that a party presents a Polish translation of documentation drawn up in a foreign language, submitted by the party. The party shall be obliged to obtain the translation of the documentation at its own expense.

**Article 64.** To perform his or her duties, the President of the Office shall have the right to access information covered by legally protected secrecy, unless special provisions stipulate otherwise.

**Article 65.** 1. The party may classify information, documents or parts thereof containing a business secret, being presented to the President of the Office. In this case the party shall also be obliged to present to the President of the Office a version of the document not containing classified information.

2. If no version of a document not containing classified information is presented, the classification shall be deemed as ineffective.

3. The President of the Office may rescind the classification by way of a decision should he or she decide that information, documents or parts thereof do not fulfil the prerequisites for covering them with a business secret.

4. In case of a statutory obligation to provide information or documents received from entrepreneurs to other domestic or foreign authorities or institutions, such information and documents shall be conveyed with a reservation that they are classified and on a condition that the classification is observed.

**Article 66.** The President of the Office shall issue the resolution referred to in Article 74 § 2 of the Act of 14 June 1960 - Code of Administrative Procedure, also in a situation where disclosure of information and documents referred to in Article 65 para. 1 may lead to the disclosure of legally protected secrets or company secret, if the request to limit access to the files for the parties to the procedure is filed by the entrepreneur from which the information comes.

**Article 67.** Should the number of parties in the procedure exceed 20, the President of the Office may apply the provisions of Article 49 of the Act of 14 June 1960 - Code of Administrative Procedure.

**Article 68.** 1. Should a need appear in the course of the procedure to supplement the evidence, the President of the Office may conduct a control procedure.

2. The duration of the control procedure shall not count towards the deadlines referred to in Article 35 of the Act of 14 June 1960 - Code of Administrative Procedure.

**Article 69.** 1. In the case referred to in Article 88 of the Act of 14 June 1960 - Code of Administrative Procedure, the President of the Office shall impose a fine ranging from PLN 500.00 to PLN 5,000.00.

2. Imposing the fine, the President of the Office shall take into account:

- 1) in case of a natural person - the personal situation of the summoned person and the degree of understanding of the seriousness of its obligations ensuing from the summons or
- 2) the need to adjust the value of the fine to the purpose which is compelling the summoned person to fulfil the summons.

3. The fine referred to in para. 1 can also be imposed if the party refuses to present a Polish translation of documentation drawn up in a foreign language.

**Article 70.** 1. If, in the course of the procedure, it is plausibly demonstrated that processing of personal data infringes

personal data protection provisions and further processing thereof may cause serious and hard-to-remove consequences, to prevent such consequences the President of the Office may, by way of a resolution, oblige the entity being challenged with the infringement of the personal data protection provisions to limit processing of personal data, indicating the permissible scope of such processing.

2. In the resolution referred to in para. 1 the President of the Office shall indicate the duration of time for which the limitation of processing of personal data shall apply, which shall not be longer than until the day on which the resolution ending the procedure in the case is issued.

3. The resolution referred to in para. 1 may be appealed to an administrative court.

**Article 71.** 1. If, in the course of the procedure, the President of the Office decides that there are justified doubts to compliance of the decision of the European Commission referred to in Article 40 para. 9 regarding the code of conduct referred to in Article 46 para. 2 (e), and the decision referred to in Article 45 para. 3 and 5 and Article 46 para. 2 (c) of the Regulation 2016/679 with the law of the European Union, the President of the Office shall file a petition with the administrative court to address a legal question on the basis of Article 267 of the Treaty on the Functioning of the European Union regarding the validity of the decision of the European Commission.

2. The petition referred to in para. 1, apart from fulfilling the requirements of a complaint referred to in Article 64 § 2 of the Act of 30 August 2002 - Law on Procedures before Administrative Courts (Journal of Laws of 2017, items 1369, 1370 and 2451 and of 2018, item 650), shall contain, in particular:

- 1) an indication of the decision of the European Commission which the petition concerns;
- 2) presentation of the reasons for which the President of the Office had doubts regarding the validity of the decision of the European Commission and its incompliance with the law;
- 3) the contents of the question or questions which the administrative court is presenting to the Court of Justice of the European Union, containing:
  - a) the subject matter of the dispute and the findings concerning the actual circumstances, including the party's position in the course of the procedure before the authority, if presented by the party,
  - b) an indication of the provisions of the law applicable in the case,
  - c) the operative part of the question or questions proposed to be presented to the Court of Justice of the European Union by the administrative court;
- 4) a declaration of compliance of the wording of the attachment referred to in para. 3 with the petition filed in paper format.

3. The petition referred to in para. 1 shall be accompanied by an attachment containing the wording of the petition in the form of an electronic file saved on a data medium in editable data format.

4. The party to the procedure before the administrative court as regards the petition referred to in para. 1 shall be the President of the Office.

5. The administrative court shall consider the petition referred to in para. 1 during a non-public hearing conducted by 3 judges.

6. The administrative court, recognizing the petition referred to in para. 1 to be justified, shall refer a question to the Court of Justice of the European Union for a preliminary ruling on the basis of Article 267 of the Treaty on the Functioning of the European Union.

7. Should the administrative court resolve that the petition referred to in para. 1 does not contain a sufficient justification to refer a question to the Court of Justice of the European Union for a preliminary ruling, it shall issue a resolution refusing to address the question.

8. The resolution referred to in para. 7 may not be appealed.

9. The administrative court shall draw up a justification of the resolution referred to in para. 7 within 21 days.

10. No fee shall be charged for the petition referred to in para. 1.

**Article 72.** Prerequisites stipulated in Article 83 para. 2 of the Regulation 2016/679, on which the President of the Office based his or her decision imposing the administrative fine and determining its value, shall additionally be presented in the justification of the decision closing the procedure.

**Article 73.** 1. Should the President of the Office deem that this is justified by public interest, after the procedure is closed, he or she shall inform the public about the decision on his or her website, in the Public Information Bulletin.

2. Entities of the public finance sector, research institutes and the National Bank of Poland, with respect to which the President of the Office issued a legally binding decision ascertaining an infringement, shall immediately publish on their websites or the Office's website in the Public Information Bulletin information about measures undertaken to execute the decision.

**Article 74.** Lodging of a complaint by the party to the administrative court shall suspend the execution of the decision within the scope of the administrative fine.

## Chapter 8

### European administrative cooperation

**Article 75.** 1. In the cases referred to in Article 61 para. 8, Article 62 para. 7 and Article 66 para. 1 of the Regulation 2016/679, the President of the Office may issue a resolution on implementing a provisional measure referred to in Article 70 para. 1.

2. In his or her resolution the President of the Office shall specify the period of time during which the provisional measure referred to in Article 70 para. 1 shall apply, which shall not be longer than 3 months.

3. The resolution may be appealed to an administrative court.

**Article 76.** Any information being addressed by the President of the Office to supervisory authorities of other Member States as part of European administrative cooperation shall be translated into one of the official languages of that Member State or to English.

**Article 77.** Should the President of the Office receive an application from the supervisory authority of another EU Member State concerning participation in a joint operation referred to in Article 62 para. 1 of the Regulation 2016/679, or should the President of the Office address such application himself or herself, the President of the Office shall make arrangements with the supervisory authority of another EU Member State concerning the joint operation and shall immediately prepare a list of the arrangements.

## Chapter 9

### Inspection of compliance with the personal data protection provisions

**Article 78.** 1. The President of the Office shall inspect the compliance with the personal data protection provisions.

2. The inspection shall be conducted in accordance with the inspection plan approved by the President of the Office or on the basis of information obtained by the President of the Office or as part of the process of monitoring of compliance with the Regulation 2016/679.

**Article 79.** 1. The inspection shall be conducted by the following person authorized by the President of the Office:

- 1) an employee of the Office,
- 2) member or employee of the supervisory authority of the EU Member State in the case referred to in Article 62 of the Regulation 2016/679  
- hereinafter referred to as "inspector".

2. The inspector referred to in para. 1 (2) shall be obliged to keep confidential any information which he or she acquired in the course of the inspection.

**Article 80.** 1. The inspector shall be excluded from participation in the inspection, upon request or *ex officio*, if:

- 1) the outcome of the inspection might have impact on his or her own rights and obligations, on the rights and obligations of his or her spouse, cohabitant, relative, next-of-kin to the second degree or person bound to him or her due to adoption, custody, or guardianship;
- 2) there are justified doubts concerning his or her impartiality.

2. The reasons for the exclusion referred to in para. 1 (1) shall be applicable also after the cessation of the marriage, adoption, custody, or guardianship.

3. The inspector or the party being inspected, hereinafter referred to as "inspected party", shall immediately notify the President of the Office about the reasons for the exclusion.

4. The President of the Office shall decide about the inspector's exclusion.



5. Until the resolution is issued, the inspector shall take measures in situation requiring urgency.

**Article 81.** 1. The inspection shall be conducted after presenting a personalized authorization and an official identity card, and in case of the inspector referred to in Article 79 para. 1 (2), after presenting a personalized authorization and a document confirming identity.

2. The personalized authorization to conduct the inspection shall contain:

- 1) an indication of the legal basis for conducting the inspection;
- 2) a designation of the authority;
- 3) the first and last name, official post of the inspector and the official identity card number, and in case of the inspector referred to in Article 79 para. 1 (2), the first and last name and the number of the document confirming identity;
- 4) an indication of the objective scope of the inspection;
- 5) a designation of the inspected party;
- 6) an indication of the date of commencement of the inspection and the anticipated date of completion of the inspection;
- 7) the signature of the President of the Office;
- 8) advice on the rights and obligations of the inspected party;
- 9) the date and place of its issuance.

**Article 82.** 1. The President of the Office may authorize a person possessing specialized knowledge to participate in the inspection if inspection requires such knowledge. The provisions of Article 80 and Article 81 para. 2 shall apply accordingly.

2. The scope of the powers of the person referred to in para. 1 shall be determined by the President of the Office in the authorization.

3. The person referred to in para. 1 shall be obliged to keep confidential any information which it acquired in the course of the inspection.

**Article 83.** 1. The inspection shall be conducted in the presence of the inspected party or a person authorized by it.

2. The inspected party shall be obliged to indicate in writing the person authorized to represent it during the course of the inspection.

3. In the event of absence of the inspected party or a person authorized by it, the authorization to conduct the inspection and the official identity card or the document confirming identity can be presented to:

- 1) the person on duty at the entrepreneur's locality within the meaning of Article 97 of the Act of 23 April 1964 - Civil Code (Journal of Laws of 2017, items 459, 933 and 1132 and of 2018, items 398 and 650) or
- 2) the summoned witness, if he is a public official within the meaning of Article 115 § 13 of the Act of 6 June 1997 - Penal Code (Journal of Laws of 2017, item 2204 and of 2018, items 20, 305 and 663), not being an employee of the Office or the person referred to in Article 80 para. 1.

**Article 84.** 1. The inspector shall have the right to:

- 1) enter any land, buildings, premises, or other spaces between the hours of 6 a.m. and 10 p.m.;
- 2) inspect documents and information directly related to the scope of the inspection;
- 3) inspect places, items, devices, media, IT and ICT systems used in data processing;
- 4) ask for written or oral clarifications and to question, as witnesses, other persons to the extent necessary to determine the current state of affairs;
- 5) order that appraisals and opinions be prepared.

2. The inspected party shall provide the inspector and persons authorized to participate in the inspection with conditions and measures necessary to efficiently conduct the inspection, in particular, it shall prepare, on its own, copies or printouts of documents and information contained on data carriers, devices, or systems referred to in para. 1 (3).

3. The inspected party shall confirm that the copies or printouts referred to in para. 2 are true copies of the original. In case of a refusal to make such confirmation, the inspector shall make note of this fact in the inspection protocol.

4. In justified cases the course of the inspection or specific activities performed as part of the inspection, after informing

the inspected party, can be recorded using image or audio recording devices. Electronic data carriers within the meaning of the Act of 17 February 2005 on the Computerization of the Business Entities Pursuing Public Tasks (Journal of Laws of 2017, item 570 and of 2018, item 1000), on which the course of the inspection or specific activities performed as part of the inspection have been recorded, shall constitute an attachment to the inspection protocol.

**Article 85.** 1. The President of the Office or the inspector may ask a local Police chief for assistance if this is necessary to conduct the inspection.

2. The Police shall assist in conducting the inspection after receiving a written request at least 7 days before the date of the inspection.

3. In urgent cases, in particular, if the inspector hits resistance not allowing him or her or hindering him or her from conducting the inspection, assistance shall also be provided upon an oral request of the President of the Office or the inspector, after presenting a personalized authorization and official identity card of the inspector.

4. In the case referred to in para. 3, the President of the Office shall provide a written confirmation of the request not later than within 3 days of the end of the inspection.

5. The Police's assistance in conducting the inspection shall consist in guaranteeing the inspector personal security and access to the place of the inspection and order at that location.

6. Assisting the inspector in conducting the inspection, the Police shall also guarantee security to other persons participating in the inspection, respecting the dignity of the persons participating in the inspection.

7. The costs incurred by the Police for assistance in conducting the inspection shall be reconciled at a fixed rate equal to 1.5% of the average monthly salary in the corporate sector without bonuses paid from the profit in the fourth quarter of the preceding year, published by the President of the Central Statistical Office on the basis of Article 7 para. 1 of the Act of 17 July 1998 on Student Loans and Credits (Journal of Laws of 2017, item 357).

**Article 86.** 1. The inspector may question the inspected party's employee as a witness.

2. The inspected party's employee shall mean a person employed on the basis of an employment relationship or performing work on the basis of a civil law contract.

3. The provision of Article 83 of the Act of 14 June 1960 - Code of Administrative Procedure - shall apply to questioning of the inspected party's employee.

**Article 87.** The inspector shall determine the actual state of affairs on the basis of the evidence gathered in the course of the inspection, in particular, on the basis of documents, items, examinations, oral or written clarifications and declarations.

**Article 88.** 1. The inspector shall present the course of the inspection in the inspection protocol.

2. The inspection protocol shall contain:

- 1) an indication of the name or the first and last name and the address of the inspected party;
- 2) the first and last name of the person representing the inspected party and the name of the authority representing the inspected party;
- 3) the first and last name, official post, the official identity card number and the number of the personalized authorization of the inspector, and in case of the inspector referred to in Article 79 para. 1 (2), the first and last name, the number of the document confirming identity and the number of the personalized authorization;
- 4) the date of the commencement and of the end of the inspection;
- 5) an indication of the objective scope of the inspection;
- 6) description of the factual state determined in the course of the inspection and other information having a significant impact on the assessment of compliance of personal data processing with the personal data protection provisions;
- 7) description of attachments;
- 8) presentation of corrections, deletions and supplements made in the inspection protocol;
- 9) advice on the right of the inspected party to make objections to the inspection protocol and the right to refuse to sign the inspection protocol;
- 10) the date and place the inspection protocol was signed by the inspector and the inspected party.

3. The inspection protocol shall be signed by the inspector and forwarded to the inspected party to be signed.

4. Within 7 days of the day the inspection protocol is presented to the inspected party to be signed, the inspected party shall either sign it or present written objections thereto.

5. Should objections be made, the inspector shall analyze them and, if necessary, shall carry out additional inspection activities, and if the objections are found valid, shall change or supplement the relevant part of the inspection protocol in the form of an annex to the inspection protocol.

6. Should the objections not be recognized in full or in part, the inspector shall inform the inspected party about this fact and shall present a justification.

7. Failure to send the signed inspection protocol to the inspector and to present objections thereto within the deadline referred to in para. 4 shall be treated as a refusal to sign the inspection protocol.

8. The inspector shall record in the inspection protocol the fact of refusal to sign the protocol, together with the date on which this fact was recorded. In the case referred to in para. 7, the fact shall be recorded after the lapse of the deadline referred to in para. 4.

9. The inspection protocol shall be drawn up in electronic format or in paper format in duplicate. The inspector shall send the inspection protocol to the inspected party.

**Article 89.** 1. The inspection shall be conducted for not longer than 30 days of the day on which the personalized authorization to conduct the inspection and the official identity card or another document confirming identity are presented to the inspected party or another person indicated in the provisions. The above time period shall not include the deadlines envisaged for presenting objections to the inspection protocol or for the inspection protocol being signed and delivered by the inspected party.

2. The date the inspection ends shall be the day on which the inspection protocol is signed by the inspected party or the day on which the fact referred to in Article 88 para. 8 is recorded.

**Article 90.** If, based on the information gathered in the course of the inspection, the President of the Office deems that the personal data protection provisions could have been infringed, he or she shall be obliged to immediately commence the procedure referred to in Article 60.

**Article 91.** The provisions of Articles 63-65 shall apply accordingly.

## Chapter 10

### Third party liability and proceedings before a court

**Article 92.** In matters not regulated in the Regulation 2016/679, the provisions of the Act of 23 April 1964 - Civil Code - shall apply to claims related to the infringement of the personal data protection provisions referred to in Article 79 and Article 82 of that Regulation.

**Article 93.** In matters concerning claims related to the infringement of the personal data protection provisions referred to in Article 79 and Article 82 of the Regulation 2016/679, the competent court shall be the regional court.

**Article 94.** 1. The court shall immediately notify the President of the Office about the fact of a statement of claim being lodged and about the final ruling ending the proceedings concerning claims related to the infringement of the personal data protection provisions referred to in Article 79 or Article 82 of the Regulation 2016/679.

2. The President of the Office, notified of the pending proceedings, shall immediately inform the court about every case concerning this same infringement of the personal data protection provisions that is pending before the President of the Office or administrative court or that has ended. The President of the Office shall also immediately inform the court about commencement of any proceedings concerning the same infringement.

**Article 95.** The court shall stay the proceedings if the action concerning the same infringement of the personal data protection provisions was brought before the President of the Office.

**Article 96.** The court shall discontinue the proceedings within the scope in which the legally binding decision of the President of the Office ascertaining an infringement of the personal data protection provisions or a legally binding sentence passed as a result of lodging the complaint referred to in Article 145a § 3 of the Act of 30 August 2002 - Law on Procedures before Administrative Courts - includes the claim being pursued in court.

**Article 97.** The findings of the legally binding decision of the President of the Office ascertaining an infringement of the personal data protection provisions or of the legally binding sentence passed as a result of lodging the complaint referred to in Article 145a § 3 of the Act of 30 August 2002 - Law on Procedures before Administrative Courts - bind the court in the proceedings for indemnification of damage caused by the infringement of the personal data protection provisions as regards

ascertainment of infringement of those provisions.

**Article 98.** 1. In matters concerning claims related to the infringement of the personal data protection provisions which can be pursued solely in proceedings before the court, the President of the Office may bring legal proceedings for the benefit of the data subject, upon its consent, and participate in all stages of the proceedings, also upon the plaintiff's consent.

2. In other matters concerning claims related to the infringement of the personal data protection provisions, the President of the Office may participate, upon the plaintiff's consent, in all stages of the proceedings before the court, unless proceedings concerning the same infringement of the personal data protection provisions are pending before this court.

3. In the cases referred to in para. 1 and 2, the President of the Office shall accordingly apply the provisions of the Act of 17 November 1964 - Code of Civil Procedure (Journal of Laws of 2018, item 155, as amended<sup>6)</sup>) referring to the prosecutor.

**Article 99.** If the President of the Office considers it favourable to the public interest, he shall present to court a view significant for the case in matters relating to the claim for the infringement of the personal data protection provisions.

**Article 100.** In matters not regulated herein, the provisions of the Act of 17 November 1964 - Code of Civil Procedure - shall apply to proceedings in the case of claims related to the infringement of the personal data protection provisions referred to in Article 79 and Article 82 of the Regulation 2016/679.

## Chapter 11

### Laws on administrative fines and criminal laws

**Article 101.** The President of the Office may impose on the entity obliged to comply with the provisions of the Regulation 2016/679, other than:

- 1) entity of the public finance sector,
- 2) research institute,
- 3) the National Bank of Poland

- by way of a decision, an administrative fine on the basis of and on terms and conditions stipulated in Article 83 of the Regulation 2016/679.

**Article 102.** 1. The President of the Office may, by way of a decision, impose administrative fines in the amount of up to PLN 100,000.00 on:

- 1) entities of the public finance sector referred to in Article 9 (1-12) and 14 of the Act of 27 August 2009 on Public Finance;
- 2) research institute,
- 3) the National Bank of Poland.

2. The President of the Office may, by way of a decision, impose administrative fines in the amount of up to PLN 10,000.00 on entities of the public finance sector referred to in Article 9 (13) of the Act of 27 August 2009 on Public Finance.

3. The administrative fines referred to in para. 1 and 2 shall be imposed by the President of the Office on the basis of and on terms and conditions stipulated in Article 83 of the Regulation 2016/679.

**Article 103.** The equivalent of amounts expressed in euro as referred to in Article 83 of the Regulation 2016/679 shall be calculated in Polish zlotys and converted at the average euro exchange rate published by the National Bank of Poland in the exchange rate table in effect on 28 January of every year, and in the situation where in the given year the National Bank of Poland does not publish the average euro exchange rate on 28 January - at the average euro exchange rate published by the National Bank of Poland in the next exchange rate table following that date.

**Article 104.** Money from the administrative fines shall constitute income of the State budget.

**Article 105.** 1. The administrative fine shall be paid within 14 days of the lapse of the deadline for lodging a complaint or of the day on which the ruling of the administrative court becomes final.

2. At the request of the fined entity, the President of the Office may defer the payment of the administrative fine or arrange for the payment in instalments for an important interest of the requesting entity.

3. A justification shall be attached to the request referred to in para. 2.

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<sup>6)</sup> Amendments to the consolidated text of the said Act were published in the Journal of Laws of 2017, item 2491 and of 2018, item 5, 138, 398, 416, 650, 730, 756, 770, 771 and 1000.

4. If the payment of the administrative fine is deferred or is arranged into instalments, the President of the Office shall charge annual interest on the amount not paid using a discounted late interest rate published on the basis of Article 56d of the Act of 29 August 1997 - Tax Ordinance (Journal of Laws of 2018, item 800, 650, 723, 771 and 1000), as of the next day after the submission of the request.

5. If the payment of the administrative fine is arranged into instalments, the interest referred to in para. 4 shall be calculated separately for each instalment.

6. Should the deferred deadline for paying the administrative fine or the deadline for paying its instalments not be met, interest shall be calculated for the period from the date of expiry of the deferred deadline for paying the administrative fine or the deadline for paying each instalment.

7. The President of the Office may repeal the deferral of the payment of the administrative fine or its payment arranged into instalments if new or previously unknown circumstances occur, important in terms of the decision, or if any instalment was not paid on time.

8. The decision of the President of the Office as regards the deferral of the payment of the administrative fine or its arrangement into instalments shall take place by way of a resolution.

9. At the request of the fined entity pursuing a business activity, the President of the Office may grant a relief in executing the administrative fine specified in para. 2, which:

- 1) shall not constitute public aid;
- 2) shall constitute de minimis aid or de minimis aid in agriculture or fisheries - within the scope and in accordance with the principles defined in the directly-applicable laws of the European Union concerning de minimis aid;
- 3) shall constitute public aid compliant with the rules of the internal market of the European Union, whose admissibility has been defined by competent authorities of the European Union.

**Article 106.** The provisions of Articles 189d-189f and Article 189k of the Act of 14 June 1960 - Code of Administrative Procedure - shall not apply.

**Article 107.** 1. Any person who processes personal data, although processing thereof is not permitted, or is not authorized to process them,

shall be subject to a fine, restriction of personal liberty or imprisonment for up to two years.

2. If the act referred to in para. 1 pertains to data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation,

shall be subject to restriction of personal liberty or imprisonment for up to three years.

**Article 108.** Any person who prevents or hinders the inspector from checking the compliance with the personal data protection provisions shall be subject to a fine, restriction of personal liberty or imprisonment for up to two years.

## Chapter 12

### Amendments to legal provisions

**Article 109.** In the Act of 17 November 1964 - Code of Civil Procedure (Journal of Laws of 2018, item 155, as amended<sup>7</sup>) in Article 17 in point 4<sup>4</sup> the period shall be replaced by a semicolon and point 4<sup>5</sup> shall be added in the following wording:

“4<sup>5</sup>) claims arising from the infringement of the rights under the personal data protection provisions.”.

**Article 110.** The following amendment shall be introduced in the Act of 17 June 1966 on Enforcement Proceedings in Administration (Journal of Laws of 2017, items 1201, 1475, 1954 and 2491 and of 2018, items 138 and 398):

- 1) the wording “Inspector General for Personal Data Protection” used in various cases in Article 2 in § 1 in point 12 and in Article 20 in § 2 shall be replaced by the wording “President of the Personal Data Protection Office” used in appropriate cases;
- 2) in Article 18i, § 12 shall have the following wording:

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<sup>7</sup> Amendments to the consolidated text of the said Act were published in the Journal of Laws of 2017, item 2491 and of 2018, item 5, 138, 398, 416, 650, 730, 756, 770 and 771.

“§ 12. Procedure in case of an objection shall not exclude liability for the infringement of the obligations arising from the personal data protection provisions.”.

**Article 111.** In the Act of 26 June 1974 - Labour Code (Journal of Laws of 2018, item 917), after Article 22<sup>1</sup>, Article 22<sup>2</sup> and Article 22<sup>3</sup> shall be added in the following wording:

“Article 22<sup>2</sup>. § 1. Where necessary to ensure the safety of employees or protect property or control production or keep confidential information the disclosure of which might be detrimental to the employer, the employer may implement special supervision over the area of the work establishment or the area around the work establishment in the form of technical measures making it possible to record images (monitoring).

§ 2. Monitoring shall not cover sanitary rooms, locker rooms, canteens, smoking rooms or rooms made available to the company trade union, unless the use of monitoring in those rooms is necessary to fulfil the objective specified in § 1 and does not infringe the dignity and other personal rights of the employee, as well as the principles of liberty and independence of trade unions, in particular, by using techniques making it impossible to recognize the persons in those rooms.

§ 3. The employer shall process the recorded images solely for the purposes for which they were collected and shall keep them for a period not exceeding 3 months of the day on which they were recorded.

§ 4. In a situation where the recorded images constitute evidence in proceedings pending under applicable laws or the employer learned that they might constitute evidence in proceedings, the time specified in § 3 shall be extended until the final conclusion of the proceedings.

§ 5. After the lapse of the period of time referred to in § 3 or 4, the recorded images obtained as a result of monitoring, containing personal data, shall be destroyed, unless separate provisions stipulate otherwise.

§ 6. The purposes, scope and usage of monitoring shall be defined in the collective labour agreement or in the work regulations or in the notice, if the employer is not covered by the collective labour agreement or is not obliged to establish work regulations.

§ 7. The employer shall inform the employees about the implementation of monitoring in the manner in effect at a given employer's, not later than 2 weeks before its activation.

§ 8. Prior to admitting the employee to work, the employer shall give the employee written information referred to in § 6.

§ 9. Should monitoring be implemented, the employer shall visibly and clearly identify the rooms and the area being monitored using appropriate signs or audio announcements, not later than one day before its activation.

§ 10. The provision of § 9 shall not infringe the provisions of Article 12 and Article 13 of the Regulation (EU)2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (Official Journal of the European Union L 119 of 04.05.2016, p. 1).

Article 22<sup>3</sup>. § 1. Where necessary to ensure work organization making it possible to fully use the working time and to properly use the work tools made available to the employee, the employer may implement control of the employee's electronic correspondence at work (monitoring of electronic mail).

§ 2. Monitoring of electronic mail cannot infringe the secrecy of correspondence and other personal rights of the employee.

§ 3. The provisions of Article 22<sup>2</sup> § 6-10 shall apply accordingly.

§ 4. The provisions of § 1-3 shall apply accordingly to forms of monitoring other than defined in § 1, if application thereof is necessary to fulfil the purposes specified in § 1.”.

**Article 112.** In the Act of 31 July 1981 on the Remuneration of High Level State Officials (Journal of Laws of 2017, item 1998 and of 2018, item 650), the wording “Inspector General for Personal Data Protection” used in Article 2 in point 2 and 4 shall be replaced by the wording “President of the Personal Data Protection Office”.

**Article 113.** In the Act of 16 September 1982 on Employees in State Offices (Journal of Laws of 2017, item 2142 and 2203 and of 2018, item 106 and 650), the wording “Bureau of the Inspector General for Personal Data Protection” used in various cases in Article 1 in para. 1 in point 13, in Article 36 in para. 5 in point 1 and Article 48 in para. 2 shall be replaced by the wording “Personal Data Protection Office”.

**Article 114.** The following amendments shall be introduced in the Act of 8 March 1990 on Municipal Government

(Journal of Laws of 2018, item 994):

- 1) after Article 9, Article 9a shall be added in the following wording:

“Article 9a. 1. The municipality, for the purpose of ensuring public order and safety of the citizens and for the purpose of fire and flood protection, may implement technical measures making it possible to record images (monitoring) in the area of public space upon the consent of the entity managing that area or holding the legal title to that area or on the premises of the real property and in construction works constituting the property of the municipality or the municipality’s organizational units, as well as in the area around such real properties and construction works, if this is necessary for the purpose of ensuring public order and safety of the citizens and for the purpose of fire and flood protection.

2. Monitoring shall not cover sanitary rooms, locker rooms, canteens, smoking rooms and social rooms.

3. The recorded images containing personal data shall be processed solely for the purposes for which they were collected and shall be kept for a period not exceeding 3 months of the day on which they were recorded, unless separate provisions stipulate otherwise.

4. After the lapse of the period of time referred to in para. 3, the recorded images obtained as a result of monitoring, containing personal data, shall be destroyed, excluding situations where the recordings have been secured in accordance with separate provisions.

5. Real properties and construction works covered by monitoring shall be visibly and clearly labelled with information about monitoring, in particular, using appropriate signs.

6. Monitoring, as part of which personal data are processed, requires applying measures protecting processing of those data, in particular, measures making it impossible to lose or unlawfully distribute them, as well as measures preventing unauthorized access to such data.”;

- 2) the existing content of Article 50 shall become para. 1 and para. 2 shall be added in the following wording:

“2. Protection of property shall include, in particular, monitoring at real properties and construction works constituting the property of the municipality as well as in the area around such real properties and construction works. The provisions of Article 9a para. 2-6 shall apply accordingly.”.

**Article 115.** The following amendments shall be introduced in the Act of 23 December 1994 on the Supreme Audit Office (Journal of Laws of 2017, item 524):

- 1) the wording “Inspector General for Personal Data Protection” used in Article 4 in para. 1 and 2 shall be replaced by the wording “President of the Personal Data Protection Office”;
- 2) in Article 29 in para. 1 in point 2 letter i shall have the following wording:

“i) processing of personal data, excluding data revealing political opinions,, religious or philosophical beliefs, as well as genetic data, data on addictions, data concerning a natural person's sex life or sexual orientation.”.

**Article 116.** In the Act of 29 June 1995 on Public Statistics (Journal of Laws of 2018, item 997), the wording “Inspector General for Personal Data Protection” used in Article 44 in para. 2 in point 2 shall be replaced by the wording “President of the Personal Data Protection Office”.

**Article 117.** In the Act of 10 April 1997 - Energy Law (Journal of Laws of 2018, items 755, 650, 685 and 771), para. 5a in Article 9c shall have the following wording:

“5a. Distribution system operators installing automatic meters at end consumers connected to their grids shall be obliged to protect the readout data of those consumers on terms and conditions specified in the personal data protection provisions.”.

**Article 118.** In the Act of 21 August 1997 on Real Estate Management (Journal of Laws of 2018, item 121, 50 and 650), the wording “Inspector General for Personal Data Protection” used in Article 60 in para. 1 in point 1 shall be replaced by the wording “President of the Personal Data Protection Office”.

**Article 119.** In the Act of 27 August 1997 on the Vocational and Social Rehabilitation and Employment of Persons with Disabilities (Journal of Laws of 2018, item 511), para. 4b in Article 6d shall have the following wording:

“4b. Entities indicated in para. 4a shall process data available from the system for the purpose for which these data were made available to them, on terms and conditions specified in the personal data protection provisions.”.

**Article 120.** In the Act of 29 August 1997 - Tax Ordinance (Journal of Laws of 2018, item 800, 650, 723 and 771) the

following amendments shall be made:

- 1) in Article 14, § 4 shall have the following wording:

“§ 4. The minister responsible for public finance shall ensure operation of the tax portal and act as a controller of data of taxpayers, tax remitters, and tax collectors, as well as their legal successors and third persons using the portal.”;

- 2) in Article 119zt, point 4 shall have the following wording:

“4) President of the Personal Data Protection Office - within the scope necessary to perform statutory tasks specified in the personal data protection provisions;”;

- 3) the wording “Inspector General for Personal Data Protection” used in Article 119zzg shall be replaced by the wording “President of the Personal Data Protection Office”.

**Article 121.** In the Act of 29 August 1997 - Banking Law (Journal of Laws of 2017, item 1876, as amended<sup>8)</sup>), letter n in Article 105 in para. 1 in point 2 shall have the following wording:

“n) President of the Personal Data Protection Office - within the scope necessary to perform statutory tasks.”.

**Article 122.** In the Act of 5 June 1998 on Voivodeship Self-Government (Journal of Laws of 2018, item 913), after Article 60 Article 60a shall be added in the following wording:

“Article 60a. 1. It shall be the obligation of the persons participating in the management of the voivodeship’s property to take utmost care in exercising management in accordance with the purpose of that property and to protect it.

2. Protection of property shall include, in particular, a possibility to use technical measures making it possible to record images (monitoring) at real properties and construction works constituting the property of the voivodeship as well as in the area around such real properties and construction works.

3. Monitoring shall not cover sanitary rooms, locker rooms, canteens, smoking rooms and social rooms.

4. The recorded images containing personal data shall be processed solely for the purposes for which they were collected and shall be kept for a period not exceeding 3 months of the day on which they were recorded, unless separate provisions stipulate otherwise.

5. After the lapse of the period of time referred to in para. 4, the recorded images obtained as a result of monitoring, containing personal data, shall be destroyed, excluding situations where the recordings have been secured in accordance with separate provisions.

6. Real properties and construction works covered by monitoring shall be visibly and clearly labelled with information about monitoring, in particular, using appropriate signs.

7. Monitoring, as part of which personal data are processed, requires applying measures protecting processing of those data, in particular, measures making it impossible to lose or unlawfully distribute them, as well as measures preventing unauthorized access to such data.”.

**Article 123.** The following amendments shall be introduced in the Act of 5 June 1998 on District Self-Government (Journal of Laws of 2018, item 995):

- 1) after Article 4a, Article 4b shall be added in the following wording:

“Article 4b. 1. The district, for the purpose of ensuring public order and safety of the citizens and for the purpose of fire and flood protection, may implement technical measures making it possible to record images (monitoring) in the area of public space upon the consent of the entity managing that area or holding the legal title to that area or on the premises of the real property and in construction works constituting the property of the district or the district’s organizational units, as well as in the area around such real properties and construction works, if this is necessary for the purpose of ensuring public order and safety of the citizens and for the purpose of fire and flood protection.

2. Monitoring shall not cover sanitary rooms, locker rooms, canteens, smoking rooms and social rooms.

3. The recorded images containing personal data shall be processed solely for the purposes for which they were collected and shall be kept for a period not exceeding 3 months of the day on which they were recorded, unless separate provisions stipulate otherwise.

4. After the lapse of the period of time referred to in para. 3, the recorded images obtained as a result of monitoring,

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<sup>8)</sup> Amendments to the consolidated text of the said Act were published in the Journal of Laws of 2017, item 2361 and 2491 and of 2018, item 62, 106, 138, 650, 685, 723 and 864.



containing personal data, shall be destroyed, excluding situations where the recordings have been secured in accordance with separate provisions.

5. Real properties and construction works covered by monitoring shall be visibly and clearly labelled with information about monitoring, in particular, using appropriate signs.

6. Monitoring, as part of which personal data are processed, requires applying measures protecting processing of those data, in particular, measures making it impossible to lose or unlawfully distribute them, as well as measures preventing unauthorized access to such data.”;

2) the existing content of Article 50 shall become para. 1 and para. 2 shall be added in the following wording:

“2. Protection of property shall include, in particular, monitoring at real properties and construction works constituting the property of the district as well as in the area around such real properties and construction works. The provisions of Article 4b para. 2-6 shall apply accordingly.”.

**Article 124.** The following amendments shall be introduced in the Act of 18 December 1998 on the Institute of National Remembrance – the Commission for the Prosecution of Crimes against the Polish Nation (Journal of Laws of 2018, item 5 and 369):

1) para. 1 in Article 53f shall have the following wording:

“1. For the purposes of conducting the exploration works and of identifying the persons mentioned in Article 53b, the Institute of Remembrance shall establish a Database of Genetic Material, hereinafter referred to as the Database, whose controller shall be the President of the Institute of Remembrance.”;

2) para. 3 in Article 53h shall have the following wording:

“3. The entity referred to in para. 2 submits to the Institute of Remembrance the information and details referred to in para. 1 and the samples of the genetic and biological material held in case of termination of activity associated with determination of identity of the persons referred to in Article 53b.”;

3) Article 71 shall have the following wording:

“Article 71. In the activity of the Institute of Remembrance specified in Article 1 the provisions of the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (Official Journal L 119 of 04.05.2016, p. 1) shall apply to running the Database.”.

**Article 125.** In the Act of 9 November 2000 on the Establishment of the Polish Agency for Enterprise Development (Journal of Laws of 2018, items 110 and 650), para. 5 in Article 6aa shall have the following wording:

“5. The Agency shall act as controller of the data referred to in para. 2 and 3.”.

**Article 126.** In the Act of 8 June 2001 on the Profession of the Psychologist and the Professional Self-Government of Psychologists (Journal of Laws item 763 and 1798 and of 2009, item 120 and 753), para. 2 in Article 13 shall have the following wording:

“2. Should the results of examinations be intended not only for the knowledge of the client, the provisions of personal data protection shall apply.”.

**Article 127.** In the Act of 27 July 2001 - Law on Common Courts Organisation (Journal of Laws of 2018, item 23, as amended<sup>9)</sup>) the following amendments shall be made:

1) § 2 in Article 175a shall be repealed;

2) the second sentence in Article 175c in § 1 shall be repealed.

**Article 128.** In the Act of 28 February 2003 on Family Benefits (Journal of Laws of 2017, item 1952 and of 2018, item 107, 138, 650, 730 and 912), in Article 23, para. 9 shall have the following wording:

“9. Information referred to in para. 8 may be processed by the minister competent for family matters and by the voivode for the purpose of monitoring the fulfilment of family benefits and for the purpose of allowing competent authorities and the voivode to verify the right to family benefits and by the entities referred to in para. 10 for the purpose for which this information was provided to them, on terms and conditions specified in the personal data protection provisions. Competent authorities and the voivode shall submit the data to the central register using the software referred

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<sup>9)</sup> Amendments to the consolidated text of the said Act were published in the Journal of Laws of 2018, item 3, 5, 106, 138, 771 and 848.

to in para. 7.”.

**Article 129.** In the Act of 27 May 2004 on Investment Funds and Management of Alternative Investment Funds (Journal of Laws of 2018, item 56, as amended<sup>10)</sup>) para. 16 in Article 286b shall have the following wording:

“16. The Commission may submit to the supervisory authority of the third country information concerning individual cases carried out by the Commission, if the conditions are met, referred to in the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (Official Journal of the European Union L 119 of 04.05.2016, p. 1) - in the case of personal data, and if the transfer is necessary to perform the tasks referred to by the Act. The Commission may, in such a case, give consent to the further transfer of this information to the supervisory authority of another third country.”.

**Article 130.** In the Act of 17 December 2004 on the Liability for the Breach of Public Finance Discipline (Journal of Laws of 2017, item 1311 and 2110), the wording “Inspector General for Personal Data Protection” used in various cases in Article 47 in para. 1 in point 11 and in Article 52 in point 8 shall be replaced by the wording “President of the Personal Data Protection Office”.

**Article 131.** The following amendments shall be introduced in the Act of 17 February 2005 on the Computerization of the Business Entities Pursuing Public Tasks (Journal of Laws of 2017, item 570):

- 1) the wording “Inspector General for Personal Data Protection” used in Article 2 in para. 4 shall be replaced by the wording “President of the Personal Data Protection Office”;
- 2) point 1 in Article 4 shall have the following wording:  
“1) personal data protection provisions;”;
- 3) para. 2 in Article 19a shall have the following wording:

“2. The competent minister in charge of informatization is the data controller of the ePUAP users.”.

**Article 132.** In the Act of 27 July 2005 - Law on Higher Education (Journal of Laws of 2017, item 2183, as amended<sup>11)</sup>), para. 5 shall be repealed in Article 88.

**Article 133.** In the Act of 18 October 2006 on Disclosure of Information about Documents of State Security Bodies from the Years 1944–1990 and the Content of these Documents (Journal of Laws of 2017, item 2186 and of 2018, item 538, 650, 651 and 730), the wording “Inspector General for Personal Data Protection” used in Article 22 in para. 1 in point 8c shall be replaced by the wording “President of the Personal Data Protection Office”.

**Article 134.** In the Act of 7 September 2007 on Assistance for Persons Entitled to Maintenance Payments (Journal of Laws of 2018, item 554 and 650), para. 8b in Article 15 shall have the following wording:

“8b. Information contained in the central register referred to in para. 8a may be processed by the minister competent for family matters and by the voivode for the purpose of monitoring the fulfilment of benefits from the maintenance fund and for the purpose of allowing competent authorities of the debtor and competent authorities of the creditor to verify the right to benefits from the maintenance fund and by the entities referred to in para. 8c for the purpose for which this information was provided to them, on terms and conditions specified in the personal data protection provisions. Competent authorities of the creditor and competent authorities of the debtor shall submit the data to the central register using the software referred to in para. 8.”.

**Article 135.** In the Act of 27 August 2009 on Public Finance (Journal of Laws of 2017, item 2077 and of 2018, item 62), the wording “Inspector General for Personal Data Protection” used in Article 139 in para. 2 shall be replaced by the wording “President of the Personal Data Protection Office”.

**Article 136.** In the Act of 5 November 2009 on Cooperative Savings and Credit Unions (Journal of Laws of 2017, item 2065, as amended<sup>12)</sup>), point 18 in Article 9f in para. 1 shall have the following wording:

“18) at the request of the President of the Personal Data Protection Office - within the scope of performance of his or her tasks specified in the personal data protection provisions;”.

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<sup>10)</sup> Amendments to the consolidated text of the said Act were published in the Journal of Laws of 2017, item 2491 and of 2018, item 106, 138, 650, 685 and 771.

<sup>11)</sup> Amendments to the consolidated text of the said Act were published in the Journal of Laws of 2017, item 2201 and of 2018, item 138, 398, 650, 730 and 912.

<sup>12)</sup> Amendments to the consolidated text of the said Act were published in the Journal of Laws of 2017, item 2486 and 2491 and of 2018, item 62, 106, 138, 650, 723, 771 and 864.

**Article 137.** In the Act of 9 April 2010 on the Disclosure of Economic Information and the Exchange of Economic Data (Journal of Laws of 2018, 470, 650, 723, 730 and 771), the wording “Inspector General for Personal Data Protection” used in Article 11 in para. 2 shall be replaced by the wording “President of the Personal Data Protection Office”.

**Article 138.** In the Act of 9 April 2010 on the Prison Service (Journal of Laws of 2017, item 631 and 1321 and of 2018, item 138, 730 and 912), point 6 in Article 18 para. 2 shall have the following wording:

“6) President of the Personal Data Protection Office;”.

**Article 139.** In the Act of 5 August 2010 on the Protection of Classified Information (Journal of Laws of 2018, item 412 and 650), point 9 in Article 34 para. 10 shall have the following wording:

“9) President of the Personal Data Protection Office;”.

**Article 140.** In the Act of 5 January 2011 - Election Code (Journal of Laws of 2018, item 754), § 4 in Article 143 shall have the following wording:

“§ 4. The record of deposits made by Polish citizens to the elections commissions of organizations and election commissions of voters shall be made available by the National Electoral Commission upon request, in the mode and manner prescribed by the personal data protection provisions.”.

**Article 141.** In the Act of 15 July 2011 on Nurse and Midwife Professions (Journal of Laws of 2018, item 1952 and of 2018, item 123 and 650), para. 9 in Article 27 shall have the following wording:

“9. Procedure in the cases referred to in para. 1-6 shall be confidential and shall be conducted in accordance with the personal data protection provisions.”.

**Article 142.** In the Act of 19 August 2011 on Payment Services (Journal of Laws of 2017, item 2003 and of 2018, item 62, 650, 723 and 864), Article 10 shall have the following wording:

“Article 10. Providers and operators of payment systems may process personal data to the extent necessary to prevent fraud associated with the execution of payment services or with the operation of a payment system and the investigation and detection of this type of fraud by the competent authorities, with the exception of the data spoken of in Article 9 para. 1 of the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (Official Journal of the European Union L 119 of 04.05.2016, p. 1).”.

**Article 143.** In the Act of 14 December 2012 on Waste (Journal of Laws of 2018, item 992), point 3 in Article 80 para. 1 shall have the following wording:

“3) ensures the safety of the data and information collected and processed and the documents, which he or she received in connection with the carrying out of the BDO (public waste register), in accordance with the personal data protection provisions.”.

**Article 144.** In the Act of 20 February 2015 on Renewable Energy Sources (Journal of Laws of 2017, item 1148, 1213 and 1593 and of 2018, item 9 and 650), para. 1 in Article 159 shall have the following wording:

“1. The President of the Office of Technical Inspection administers and processes the data contained in the register referred to in Article 158 para. 1 in accordance with the personal data protection provisions.”.

**Article 145.** In the Act of 24 July 2015 - Law on Assemblies (Journal of Laws of 2018, item 408), para. 3 in Article 15 shall have the following wording:

“3. A decision banning an assembly shall be published in the Public Information Bulletin, taking into account the personal data protection provisions, for 3 months of it being issued.”.

**Article 146.** In the Act of 11 September 2015 on Insurance and Reinsurance Activity (Journal of Laws of 2018, item 999), point 10 in Article 35 in para. 2 shall have the following wording:

“10) President of the Personal Data Protection Office - within the scope of performance of his or her tasks specified in the personal data protection provisions;”.

**Article 147.** In the Act of 25 September 2015 on the Profession of Physiotherapist (Journal of Laws of 2018, item 505), para. 9 in Article 12 shall have the following wording:

“9. Procedure in the cases referred to in para. 1-7 shall be confidential and shall be conducted in accordance with the personal data protection provisions.”.

**Article 148.** In the Act of 9 October 2015 on Biocides (Journal of Laws of 2018, item 122, 138 and 650), para. 2 in Article 42 shall have the following wording:

“2. The report and the data referred to in para. 1 may not include data protected under the personal data protection provisions.”.

**Article 149.** The following amendment shall be introduced in the Act of 28 January 2016 - Law on the Public Prosecution Office (Journal of Laws of 2017, item 1767 and of 2018, item 5):

1) in Article 13:

a) § 5 shall have the following wording:

“§ 5. The State Public Prosecutor’s Office is the controller of data processed in systems of common organizational units of the Public Prosecutor’s Office.

b) § 6 and 7 shall be added in the following wording:

“§ 6. The common organizational units of the Public Prosecutor’s Office are the controllers of data processed as part of the tasks being performed, excluding data referred to in § 5.

§ 7. The provisions of Articles 12-16, Articles 18-22 of the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (Official Journal of the European Union L 119 of 04.05.2016, p. 1) shall not apply to processing of personal data in proceedings or computerized systems as part of performance of tasks referred to in para. 2.”;

2) § 2 in Article 191 shall be repealed.

**Article 150.** In the Act of 11 February 2016 on State Aid in Raising Children (Journal of Laws of 2017, item 1851 and of 2018, item 107, 138, and 650), para. 3 in Article 14 shall have the following wording:

“3. Information referred to in para. 2 may be processed by the minister competent for family matters and by the voivode for the purpose of monitoring the fulfilment of child benefits and for the purpose of allowing competent authorities and the voivodes to verify the right to child benefits and by the entities referred to in para. 4 for the purpose for which this information was provided to them, on terms and conditions specified in the personal data protection provisions. Competent authorities and the voivodes shall submit the data to the central register using the computerized systems referred to in para. 1.”.

**Article 151.** In the Act of 25 February 2016 on Reuse of Public Sector Information (Journal of Laws, item 352 and of 2017, item 60), para. 2 in Article 7 shall have the following wording:

“2. The provisions of the Act do not infringe the personal data protection provisions.”.

**Article 152.** In the Act of 13 April 2016 on the Security of Trade in Explosives Precursors (Journal of Laws of 2018, item 410), Article 9 shall have the following wording:

“Article 9. The personal data protection provisions shall apply to the personal data collected in the registration system.”.

**Article 153.** In the Act of 16 November 2016 on the National Fiscal Administration (Journal of Laws of 2018, item 508, 650 and 723), para. 1 in Article 45 shall have the following wording:

“1. To carry out their statutory tasks in the scope referred to in Article 2 para. 1 points 1, 2, 6 and 8, the National Fiscal Administration authorities may collect and use information, including personal data, from legal persons, organizational units without legal personality, and natural persons running business activity, about events directly giving rise to or affecting the amount of tax or customs liability, and to process them, and ask those entities for documents containing information, including personal data, also without knowledge and consent of the data subject.”.

**Article 154.** In the Act of 14 December 2016 - Education Law (Journal of Laws of 2018, item 996), after Article 108 Article 108a shall be added in the following wording:

“Article 108a. 1. Where necessary to ensure the safety of students and staff or to protect property, the principal of the school or institution, in concert with the authority running the school or institution and after consulting the teachers’ council, the parents’ council and the students’ council, may implement special supervision over the school’s or institution’s premises or the area around the school or institution in the form of technical measures making it possible to record images (monitoring).

2. Monitoring should not constitute a means of supervision over the quality of work being performed by the school's or institution's staff.

3. Monitoring shall not cover rooms in which educational, parenting and caregiving classes are held, in which psychological assistance and counselling are offered to students, rooms intended for staff's rest and recreation, sanitary and hygiene rooms, health prevention rooms, locker rooms and change rooms, unless the use of monitoring in those rooms is necessary due to the existing threat to the fulfilment of the objective specified in para. 1 and does not infringe the dignity and other personal rights of the students, staff and other persons, in particular, by using techniques making it impossible to recognize the persons in those rooms.

4. The recorded images containing personal data of the students, staff and other persons who can be identified in those recordings shall be processed by the school or institution solely for the purposes for which they were collected and shall be kept for a period not exceeding 3 months of the day on which they were recorded.

5. After the lapse of the period of time referred to in para. 4, the recorded images obtained as a result of monitoring, containing personal data of the students, staff and other persons who can be identified in those recordings, shall be destroyed, unless separate provisions stipulate otherwise.

6. The principal of the school or institution shall inform the students and staff of the school or institution about the implementation of monitoring in the manner in effect at a given school or institution, not later than 14 days before activation of monitoring.

7. Prior to admitting any person to performing its official tasks, the principal of the school or institution shall inform such person in writing about monitoring being used.

8. Should monitoring be implemented, the principal of the school or institution shall visibly and clearly identify the rooms and the area being monitored using appropriate signs or audio announcements, not later than one day before its activation.

9. The principal of the school or institution agrees with the authority running the school or institution upon appropriate technical and organizational measures protecting the recorded images and personal data of the students, staff and other persons who can be identified in those recordings, obtained as a result of monitoring.”.

**Article 155.** In the Act of 16 December 2016 on the Principles of State Property Management (Journal of Laws item 2259, of 2017, item 624, 1491 and 1529 and of 2018, item 538 and 702), after Article 5 Article 5a shall be added in the following wording:

“Article 5a. 1. State property management shall also include ensuring the safety of the property as part of which it is possible to apply security measures, including, in particular, physical measures and technical measures making it possible to record images (monitoring) at real properties and construction works constituting state property as well as in the area around such real properties and objects, if necessary to ensure safety to the state property being managed.

2. Monitoring shall not cover sanitary rooms, locker rooms, canteens, smoking rooms and social rooms.

3. The recorded images containing personal data shall be processed solely for the purposes for which they were collected and shall be kept for a period not exceeding 3 months of the day on which they were recorded, unless separate provisions stipulate otherwise.

4. After the lapse of the period of time referred to in para. 3, the recorded images obtained as a result of monitoring, containing personal data, shall be destroyed, excluding situations where the recordings have been secured in accordance with separate provisions.

5. Real properties and construction works covered by monitoring shall be visibly and clearly labelled with information about monitoring, in particular, using appropriate signs.

6. Monitoring, as part of which personal data are processed, requires applying measures protecting processing of those data, in particular, measures making it impossible to lose or unlawfully distribute them, as well as measures preventing unauthorized access to such data.”.

**Article 156.** In the Act of 9 March 2017 on the Monitoring System for the Road Carriage of Goods (Journal of Laws, item 708 and of 2018, item 138), para. 3 in Article 4 shall have the following wording:

“3. The register shall be kept by the Head of the National Fiscal Administration, who shall be the controller of the data processed in the register.”.

**Article 157.** In the Act of 27 October 2017 on Primary Healthcare (Journal of Laws, item 2217), para. 5 in Article 10 shall have the following wording:

“5. The completed statements of choice referred to in para. 1 point 1 shall be stored by the healthcare provider at his or her premises or at the place of provision of the primary healthcare services, ensuring access to the statements to the beneficiaries who have submitted them, subject to the requirements resulting from the personal data protection provisions.”.

## Chapter 13

### Transitional and alignment provisions

**Article 158.** 1. The person holding on 24 May 2018 the function administrator of information security referred to in the Act being repealed in Article 175 shall become a data protection officer and shall fulfil this function starting on 1 September 2018, unless before that date the controller informs the President of the Office about designating a different person for the post of the data protection officer, in a manner stipulated in Article 10 para. 1.

2. The person who becomes a data protection officer under para. 1 shall fulfil its function also after 1 September 2018 if, by that date, the controller informs the President of the Office about its designation in a manner stipulated in Article 10 para. 1.

3. The person referred to in para. 1 may be recalled by the controller without informing the President of the Office about designating a different person for the post of the data protection officer if the controller is not obliged to designate a data protection officer.

4. The controller who, prior to the date of entry into force of this Act, did not designate an administrator of information security referred to in the Act being repealed in Article 175, shall be obliged to designate a data protection officer under Article 37 of the Regulation 2016/679 and to notify the President of the Office about designation thereof by 31 July 2018.

5. The processor obliged to designate a data protection officer under Article 37 of the Regulation 2016/679 shall designate a data protection officer and shall notify the President of the Office about designation thereof, in the manner stipulated in Article 10 para. 1, by 31 July 2018.

**Article 159.** 1. Inspections commenced under the Act being repealed in Article 175 and not completed before the effective date hereof shall be governed by the hitherto provisions.

2. Authorizations and official identity cards issued before the effective date of this Act shall remain valid until the end of the inspections referred to in para. 1.

**Article 160.** 1. Proceedings conducted by the Inspector General for Personal Data Protection, commenced and not finished before the effective date of this Act, shall be conducted by the President of the Office.

2. Proceedings referred to in para. 1 shall be conducted on the basis of the Act repealed in Article 175, in accordance with the principles set out in the Act of 14 June 1960 - Code of Administrative Procedure (Journal of Laws of 2017, item 1257, and of 2018, items 149 and 650).

3. Measures taken in the course of the proceedings referred to in para. 1 shall remain in force.

4. Proceedings conducted on the basis of chapter 6 of the Act repealed in Article 175 shall be discontinued. No decision discontinuing the proceedings shall be issued.

**Article 161.** The subject to which the address or request referred to in Article 19a of the Act repealed in Article 175 was served before the effective date of this Act shall be obliged to provide to the President of the Office a reply to the address or request within 30 days of the effective date of this Act.

**Article 162.** 1. In case of enforcement proceedings conducted on the basis of an enforcement title issued by the Inspector General for Personal Data Protection before the effective date of this Act and not finished before the effective date of this Act, the creditor shall be the President of the Office.

2. Measures taken by the Inspector General for Personal Data Protection in the course of the proceedings referred to in para. 1 shall remain in force.

**Article 163.** In enforcement proceedings commenced on the basis of the provisions of the Act amended in Article 110 and not finished before the effective date of this Act, enforcement titles, rulings containing the position of the Inspector General for Personal Data Protection and other measures taken by the Inspector General for Personal Data Protection, as the creditor, shall remain in force.

**Article 164.** Proceedings concerning the position of the Inspector General for Personal Data Protection, as the creditor, commenced on the basis of Article 34 of the Act amended in Article 110 and not finished before the effective date of this Act, shall be conducted by the President of the Office.

**Article 165.** Existing implementing rules issued on the basis of Article 22a of the Act repealed in Article 175 shall remain in force until the day of entry into force of the implementing rules issued on the basis of Article 47 of this Act, no longer though than 12 months of its effective date.

**Article 166.** 1. On the day this Act comes into force, the Inspector General for Personal Data Protection shall become the President of the Office.

2. Based on the Act repealed in Article 175, the person appointed to the post of the Inspector General for Personal Data Protection shall remain in that post until the lapse of the term of office for which it was appointed.

3. The deputy Inspector General for Personal Data Protection appointed before the effective date of this Act shall become, on the effective date of this Act, the deputy President of the Office referred to in Article 36 para. 1.

**Article 167.** 1. On the effective date of this Act, the Bureau of the Inspector General for Personal Data Protection shall become the Office.

2. On the effective date of this Act, the employees of the Bureau of the Inspector General for Personal Data Protection shall become the employees of the Office. The provision of Article 23<sup>1</sup> of the Act of 26 June 1974 - Labour Code (Journal of Laws of 2018, items 917 and 1000) shall apply accordingly.

**Article 168.** On the effective date of this Act, the property of the State Treasury in possession of the Bureau of the Inspector General for Personal Data Protection shall become the property in possession of the Office.

**Article 169.** Receivables and liabilities of the Bureau of the Inspector General for Personal Data Protection shall become, on the effective date of this Act, the receivables and liabilities of the Office.

**Article 170.** In a situation where the Inspector General for Personal Data Protection does not submit the report referred to in Article 20 of the Act repealed in Article 175 by the effective date of this Act, the report shall be submitted by the President of the Office by 31 July 2018.

**Article 171.** 1. In court proceedings, court and administrative proceedings or administrative proceedings commenced and not finished before the effective date of this Act, in which the Inspector General for Personal Data Protection was a party or participant, the President of the Office shall become the party or participant as of the effective date of this Act.

2. In court proceedings, court and administrative proceedings or administrative proceedings commenced and not finished before the effective date of this Act, in which the Bureau of the Inspector General for Personal Data Protection was a party or participant, the President of the Office shall become the party or participant as of the effective date of this Act.

**Article 172.** The President of the Office shall issue the first statement referred to in Article 54 para. 1 point 1 within 3 months of the effective date of this Act.

**Article 173.** A Council shall be created.

**Article 174.** 1. The maximum limit of expenses from the State Budget intended for performing the activities envisaged under this Act shall amount to:

- 1) year 2018 - PLN 19,639,000.00;
- 2) year 2019 - PLN 13,541,000.00;
- 3) year 2020 - PLN 13,860,000.00;
- 4) year 2021 - PLN 13,860,000.00;
- 5) year 2022 - PLN 13,860,000.00;
- 6) year 2023 - PLN 13,860,000.00;
- 7) year 2024 - PLN 13,860,000.00;
- 8) year 2025 - PLN 13,860,000.00;
- 9) year 2026 - PLN 13,860,000.00;
- 10) year 2027 - PLN 13,860,000.00.

2. The President of the Office shall monitor the spending of the limit of expenses referred to in para. 1 and shall assess the consumption of that limit as at the end of every quarter.

3. In case of exceedance or risk of exceedance of the maximum limit of expenses specified in para. 1 adopted for the given budget year and in case when, during the period from the beginning of the calendar year until the day the last assessment

referred to in para. 2 is performed, a part of the annual limit falling proportionally for that period is exceeded by at least 10%, an adjustment mechanism shall be applied where the State Budget expenses being the financial consequence of this Act shall be reduced.

4. The authority competent to implement the adjustment mechanism referred to in para. 3 shall be the President of the Office.

#### Chapter 14

#### **Final provisions**

**Article 175.** The Personal Data Protection Act of 29 August 1997 (Journal of Laws of 2016, item 922 and of 2018, item 138 and 723) shall be repealed, excluding Article 1, Article 2, Article 3 para. 1, Articles 4-7, Articles 14-22, Articles 23-28, Article 31 and chapters 4, 5 and 7 which shall remain in force with respect to processing of personal data for the purpose of recognizing, preventing, detecting and combating unlawful acts, conducting proceedings in cases concerning those acts and executing the rulings passed in those cases, disciplinary penalties and coercive measures within the scope stipulated in the provisions constituting the basis for the activities of services and authorities authorized to perform tasks in this regard, until the date of entry into force of the laws implementing the Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (Official Journal of the European Union L 119 of 04.05.2016, p. 89).

**Article 176.** This Act shall enter into force on 25 May 2018.

President of the Republic of Poland: *A. Duda*